

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CARLITO LINSANGAN Y DIAZ, ACCUSED-APPELLANT.

G.R. No. 88589. April 16, 1991

Ponente: GRINO-AQUINO, J.

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GRINO-AQUINO, J.:

This is an appeal from the decision dated April 26, 1988, of the Regional Trial Court, Branch XLIX, Manila, in Criminal Case No. 87-58968-SCC, finding the accused guilty of the crime of Violation of Section 4 of Article II in relation to Section 21, Art. IV of Republic Act 6425 (The Dangerous Drugs Law), as amended, sentencing him to suffer the penalty of reclusion perpetua with all the accessory penalties of the law, and to pay a fine of P20,000 plus costs.

The information dated November 13, 1987, charged:

"That on or about November 13, 1987 in the City of Manila, Philippines, the said accused, not being authorized by law to sell, deliver, give away to another or distribute any prohibited drug, did then and there willfully and unlawfully sell, deliver or give away to another ten (10) handrolled sticks of marijuana cigarettes, which is a prohibited drug." (p. 15, Rollo.)

Upon arraignment on November 27, 1987, the appellant, assisted by counsel de parte, pleaded not guilty to the charge.

It was established during the trial that in early November, 1987, police operatives of the Drug Enforcement Unit, Police Station No. 3 of the Western Police District were informed that there was rampant drug using and pushing on Dinalupihan Street, Tondo, Manila. The pusher was described to them as a boy of about 20 years, 5'5" in height, and of ordinary build. He allegedly sold marijuana to anybody, regardless of age ("walang gulang"). In light of these reports, Police Lieutenant Manuel Caeg and the other members of the unit organized a "buy-bust" operation on November 13, 1987 at Dinalupihan St., Tondo, Manila, to effect the arrest of the notorious drug pusher. Patrolman Roberto Ruiz, a member of the WPD since October 1, 1978 and assigned to the Drug Enforcement Unit since October, 1987, doing surveillance and arrest operations, was designated as the team leader. Pfc. Eleazar Lahom, Patrolmen Tomasito Corpuz and Jesus Saulog were designated as team members (pp. 1-19, t.s.n., December 16, 1987).

Five (5) days before the appointed date, the police operatives conducted a "test-buy" operation on Rizal Avenue, Sta. Cruz, Manila. They arrested a person for violation of Section 8 of Republic Act 6425, as amended (Possession or Use of Prohibited Drug). Under questioning by the police operatives, the person informed them that he bought marijuana at Dinalupihan Street in Tondo.

On November 13, 1987 at 10 o'clock in the morning, before the group left the office for the area of operation, two (2) ten-peso bills were given to Pat. Corpuz who had marked them with his initials "T.C." He gave one of the marked bills to the informer. Then, they proceeded to Dinalupihan, using an owner-type jeep driver by Pat. Lahom. They were all in civilian clothes. Pat. Corpuz wore a pair of maong shorts and a white t-shirt placed over

his shoulders. They parked the jeep on Dinalupihan Street near Pampanga Street in Tondo. After briefing by the teamleader, Pat. Corpuz and the confidential informant approached the appellant. Pat. Lahom and Saulog remained in the jeep while Pat. Ruiz stood beside the jeep to watch the transaction.

As Patrolman Corpuz and the confidential informant walked together, they conversed about the suspect. Pat. Corpuz asked the informant where the suspect was and the informer pointed to the appellant, who was seated by the gutter about six (6) meters away from them, seemingly waiting for someone. He was wearing blue-and-green shorts and a sando (undershirt). The informer raised his hand as a signal to the appellant, who rose and walked toward them. They walked toward a wooden house with a wooden fence and a store on the left side. The informer told the appellant: "Kukuha ako." The informer asked: "Magkano?" The informer told the accused that he would buy P10 worth of marijuana while his "compadre" (referring to Patrolman Tomasito Corpuz), would also get P10 worth. P20 would fetch ten (10) cigarette sticks of handrolled marijuana at P2.00 per stick. The policeman and the informer impressed upon the accused that they were in dire need of marijuana. The accused took the P20 from Pat. Corpuz and tucked it in his front waist. The accused went inside the wooden house, while Pat. Corpuz and the informer waited outside. The accused emerged shortly and handed over to Pat. Corpuz ten (10) cigarette sticks of handrolled marijuana. Pat. Corpuz took them with his right hand and at the same time he grabbed the accused with his other hand, saying: "Pulis ito, h'wag kang pumalag!" Pat. Ruiz saw the signal and rushed over to them. The accused tried to resist but was overpowered. The informer took to his heels (pp. 1-35, t.s.n., Jan. 13, 1988).

Pat. Ruiz frisked Linsangan and retrieved the marked ten-peso bills (Exhs. A-1 and A-2) tucked in his waist. He asked the appellant to sign his name on the two P10 bills. They boarded the jeep and returned to the police station. Pat. Ruiz prepared a letter-request to the NBI for the laboratory examination of the ten suspected marijuana sticks. The appellant also put his initials "C.L." on each stick (December 18, 1987, t.s.n.).

Before Pat. Ruiz investigated the appellant, he prepared the booking sheet and arrest report, the affidavit of arrest, crime report, and referral letter to the Fiscal's Office. Just when the appellant was being apprised of his constitutional rights, his uncle, a neighbor, and the barangay chairman arrived. According to Pat. Ruiz, Linsangan's uncle offered P500 to Pat. Corpuz in the presence of Pat. Lahom, to let the accused go. He was requested by the barangay chairman, who is allegedly a compadre of Major Yangquiling, commander of the arresting officers, not to proceed with the case.

The ten (10) handrolled cigarette sticks were referred to the NBI's forensic chemist, Carina Javier, for examination. She found them positive for marijuana. As soon as Pat. Ruiz received the NBI report on the examination, he booked the appellant for violation of the Dangerous Drugs Law and filed the case with the fiscal's office.

Linsangan denied the charge. He alleged that at around 10:30 in the morning of November 13, 1987, he was in the vendor's stand of his neighbor Emeterio Balboa, alias Rey Galunggong, on Dinalupihan Street to buy his breakfast, for he had just awakened. He lived with his widowed mother, Erlinda, on the ground floor of a two-storey house on the alley at 1284 Dinalupihan Street, Tondo, Manila. The upper floor was occupied by his mother's brother, Geosito Diaz, who is engage in the second-hand tire business. Although once in a while, his uncle helped them financially, he earned his living by driving a tricycle on a 5 p.m. to 12 p.m. shift. He admitted that he had witnessed some men in Dinalupihan engaged in drinking sprees and smoking marijuana.

The appellant alleged that the police officers fabricated the charge against him for in the last week of September, 1987, Patrolmen Corpuz and Ruiz tried to board his tricycle, which he was driving that night, to arrests someone, but he did not allow them to board his tricycle, for fear of being involved in the case.

Appellant's neighbor Emeterio Balboa testified that at around 10:30 a.m. on November 13, 1987, two persons

alighted from an owner-type jeep parked near his store. They asked the appellant, who was standing about one-and-a-half arms-length away if he was Carlito Linsangan, and when the appellant said "yes," they introduced themselves as policemen, frisked him and took him away.

The appellant presented a Certification from his Barangay Chairman, Crisanto Guansing of Brgy. 206, Zone 19, attesting to his good moral character. Nevertheless, the trial court found him guilty of the charge of drug pushing. The dispositive part of its decision reads:

WHEREFORE, judgment is hereby rendered finding the Accused CARLITO LINSANGAN Y DIAZ guilty beyond reasonable doubt for the crime of violation of Section 4 of Republic Act 6425, as amended and hereby sentences him to the penalty of RECLUSION PERPETUA, with all the accessory penalties of the law, and to pay a fine of P20,000, without subsidiary imprisonment in case of insolvency, and to pay the costs.

"The ten (10) cigarette sticks of handrolled marijuana (Exhibits 'F-2' to 'F-11') subject matter of this case are hereby confiscated in favor of the government.

"The Accused shall be entitled to the full period of his detention at the City Jail provided that he agreed in writing to abide by and comply strictly with the rules and regulations of the City Jail." (pp. 32-33, Rollo.)

The accused appealed to this Court alleging that the lower court erred:

1. in not finding that the prosecution witnesses, Pfc. Ruiz and Corpuz, were motivated by ill-feelings against the appellant, and that their testimonies were fraught with contradictions and inconsistencies;
2. in not finding that it was the informer and not the accused, who handed ten sticks of hand-rolled marijuana cigarettes to Pat. Corpuz;
3. in not holding that the marked money was planted evidence; and
4. in not holding that when the policemen required him to initial the P10-bills, they violated his constitutional right to counsel, to remain silent, and not to incriminate himself while under custodial investigation.

The appeal has no merit.

The court's assessment of the credibility of the prosecution's witnesses is entitled to great respect unless and until they are clearly shown to be arbitrary, which the defense failed to do (*People vs. Caldito*, 182 SCRA 554). Although some inconsistencies were noted by the appellant in the affidavit of arrest prepared by Pat. Corpuz, they involve minor details which do not affect the over-all picture of the case.

The alleged motive of the policemen for fabricating the charge against him and planting marked money on his person is not credible. The Court is unable to imagine that a lowly tricycle driver would have the temerity to defy a pair of armed policemen by refusing to give them a ride in his tricycle to pursue a law violator.

The appellant was not denied due process during the custodial investigation. Although he was not assisted by counsel when he initialed the P10-bills that the police found tucked in his waist, his right against self-incrimination was not violated for his possession of the marked bills did not constitute a crime; the subject of the prosecution was his act of selling marijuana cigarettes (*People vs. Layuso*, 175 SCRA 47; *People vs. Macuto*, 176 SCRA 762; *Mejia vs. Pamaran*, 160 SCRA 457). His conviction was not based on the presence of his initials on the P10-bills, but on the fact that the trial court believed the testimony of the policemen that they arrested him while he was actually engaged in selling marijuana cigarettes to a member of the arresting party. The trial court gave more credence to their categorical declarations than to the appellant's denials (*People vs. Tan*, 145 SCRA 614). That is as it should be for as law enforcers, they are presumed to have performed their official duties in a

regular manner (People vs. de Jesus, 145 SCRA 521; People vs. Ale, 145 SCRA 50). Their task of apprehending persons engaged in the deadly drug trade is difficult enough without legal and procedural technicalities to make it doubly so.

WHEREFORE, the appeal is dismissed for lack of merit. The judgment of the trial court in Criminal Case No. 87-58968-SCC is hereby affirmed except the penalty imposed on the accused, Carlito Linsangan y Diaz, which shall be life imprisonment and a fine of P20,000, with costs de oficio.

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Medialdea, JJ., concur.

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