

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ISABELO SANCHEZ Y PANDILI, ACCUSED-APPELLANT.

G.R. No. 89407. December 21, 1990

Ponente: SARMIENTO, J.

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SARMIENTO, J.:

This is an appeal from the decision of the Regional Trial Court,[1] sentencing the accused to life imprisonment for peddling marijuana. The facts are as follows:

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On May 12, 1987, at about 2:00 o'clock in the afternoon, Capt. Feliciano Sabite of the 9th Narcotics Regional Unit (NRU), NARCOM, based in Calarian, Zamboanga City, received information from a civilian informer that rampant selling of dried marijuana leaves is being conducted in Ates Drive, Baliwasan Chico, Zamboanga City, by a certain pusher who later was identified as the herein accused, Isabelo Sanchez y Pandili. Capt. Sabite relayed the information to his Commanding Officer, Major Ruperto Remetre, who authorized him to conduct a "buy-bust" operation against the suspected pusher. Major Remetre gave Capt. Sabite two (2) fifty Peso (P50.00) bills to be used in the "buy-bust" operation, which Capt. Sabite marked by writing his initials under the Serial Numbers and at the back of the P50.00 bills.

Thereupon Capt. Sabite organized a team of NARCOM agents, with him as Team Leader, composed of T-Sgt. Genaro Julom and CIC Maximino Daus. During the briefing that he conducted before the operation, Capt. Sabite designated CIC Maximino Daus to act as the "poseur-buyer" to buy the marijuana from suspected pusher (accused), and for this purpose the two (2) marked P50.00 bills were given to Daus.

The team then "jumped off" at about 3:45 o'clock in the afternoon, meaning, they left the NARCOM Headquarters for their target area at Ates Drive, on board a tricycle and a motorcycle. Arriving at Ates Drive some thirty minutes later, C1C Daus was immediately directed to proceed, with the Civilian Informer who was with them, to the place where the accused was conducting his business of selling marijuana, while Capt. Sabite and T/Sgt. Julom stayed behind about 30 meters away where they could not be noticed but where they could see and observe both C1C Daus and the accused.

The accused and a companion were under a house, and upon seeing them, the accused approached C1C Daus and the informer. C1C Daus then told the accused he wanted to buy marijuana worth P100.00, and when the accused agreed to sell, Daus gave him the two (2) Fifty Peso (P50.00) marked bills, and the accused left. About 5 minutes later, the accused returned and handed C1C Daus a rolled newspaper (Exhibit I-1) which C1C Daus inspected and when he found the contents were dried marijuana leaves, he immediately gave the pre-agreed signal to his companions by placing his right hand on top of his head to signify that the transaction was consummated, and thereupon Capt. Sabite and Sgt. Julom rushed to them. The accused and his companions attempted to flee but Capt. Sabite was able to collar the accused and placed him under arrest, while his companion who was chased by Sgt. Julom was able to make good his escape by running to the interior of Ates Drive. Capt. Sabite recovered from the right pocket of the accused only one Fifty Peso bill, with Serial No. UH-427951 (Exhibit H), which is one of the marked money, while the other Fifty Peso bill was

not recovered.

The accused was then taken to the NARCOM Headquarters and turned over to NARCOM Investigator Sgt. Mohammad Sali Mihasun for investigation, together with the confiscated dried marijuana leaves which they estimated to be 20 grams in weight wrapped in a newspaper (Exhibit I-1) and the recovered P50.00 marked money (Exhibit H). Sgt. Mihasun prepared the booking sheet and arrest report (Exhibit C), the receipt of property seized (Exhibit D), his Investigative Report (Exhibit J), and a letter addressed to the NBI Regional Director requesting the laboratory examination of the dried marijuana leaves (Exhibit E).

Isadore Ma. Molina, the NBI Forensic Chemist, upon receiving the specimen, weighed it at the laboratory and found that the specimen submitted was 49.7 grams, not 20 grams as estimated by NARCOM and indicated in the letter, and made the corresponding correction the letter request by writing the figure "49.7 gms." thereon. He then proceeded to conduct the laboratory examination, using the three tests, namely: microscopic, chemical and chromatographic examination, the results of which show that the specimen was marijuana. He then prepared an official report. Dangerous Drugs (Marihuana) Report No. DDM-87-38 (Exhibit G), which contained the following:

"FINDING:

"Weight of specimen - 49.7 gms.

"Microscopic, chemical and chromatographic examinations made on the above-mentioned specimen gave POSITIVE RESULTS for MARIHUANA."[2]

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The accused, however, tells a different story:

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At about 3:00 o'clock in the after-noon of May 12, 1987, he and his wife Angelita Sanchez were walking home along Ates Drive, Baliwasan Chico, Zamboanga City, coming from a birthday party of his cousin Jimmy Pandili who also live in Ates Drive. They stopped walking for a while because his wife told him to buy antibiotic capsules in the city proper, and gave him P50.00, consisting of three P10.00 bills and one P20.00 bill. While they were still talking, a certain Joel Hapner approached them and requested them to change into smaller denomina-tions his two P50.00 bills, and inasmuch as he had just the amount of change he changed one of the P50.00 bills, while they were changing the money, a motorcycle with three (3) persons riding (tandem), arrived and Joel ran away, at the same time throwing towards them (the accused) the thing he was bringing in his hands which was wrapped in a newspaper, which landed about 8 meters from them. The motorcycle stopped near them and two of the riders alighted and chased Joel, while the 3rd rider who was left in the motorcycle pointed his gun at him (the accused) and searched his body, without saying anything. Then the man removed his (accused's) belt which he used to tie his hands together. His wife, seeing the gun pointed at him, was shocked, became pale and nearly fainted, and Efren Enriquez who happened to be nearby, went to her and gave her water. The two men (sic) chased Joel returned without their quarry, but bringing the thing wrapped in the newspaper which one of them picked up.

The men took the P50.00 from his pocket, and asked him if he was the companion of Joel, and when he denied, was slapped several times and boxed on the stomach. The men, who turned out to be NARCOM agents, then took him to the NARCOM headquarters on board a passing private jeep. His wife, who was not allowed by them to ride on the jeep, followed them to the headquarters.

At the NARCOM headquarters, he was investigated, and asked whether he owned the newspaper, and when he denied ownership, he was again boxed like a punching bag, because according to them was hard headed. He did not tell his wife that he was maltreated and boxed inside the investigation room, but just cried because of

pain. He was detained, booked and the following day he was taken to the City Fiscal's Office.[3]

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The accused now assails the decision, insisting that the court a quo erred in accepting the evidence for the prosecution and disregarding his own.

As in many criminal determinations, the question hangs often on credibility of testimony. On this score, we have consistently deferred to the findings of the trial judge, since he was in a better position to observe the demeanor of the witnesses and to determine the believability of their testimonies. As an appellate court, this Court has none of a judge's advantages but only the cold records of the case, which themselves originated from his bench.

The buy-bust operation conducted by police operatives herein constitutes a legitimate effort by authorities to contain the perdition drug abuse has brought upon many, especially the youth. From the prosecution's version, the accused was caught red-handed, in the act of trafficking the prohibited plant in question. It is hardly a strange story but on the other hand, a perfectly credible one.

The accused's assault on the believability of the prosecution's evidence can not consequently prosper. His contention of discrepancies arising from conflicting claims between investigators, who alleged that twenty grams of marijuana were seized from his person, and the NARCOM chemist, who alleged that 49.7 grams were recovered, deserves no merit, because the fact remains that there was marijuana seized, however no matter how much it weighed, and second, because the authorities mistakes as to weights and measures can not reasonably give rise to the inference, as he, the accused, would have us infer, that no marijuana was recovered and that the corpus delicti has been concocted by the police. There was marijuana, although the authorities differed as to how much it weighed, and it is to strain logic to say that because of these differences, it means that there was no marijuana.

The fact that the information indicated "marijuana dried leaves"[4] while the laboratory report mentioned "dried flowering tops"[5] is no ground for acquittal. Only recently, we held:

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The alleged contradiction pointed out by the accused in the testimonies of Pfc. Amor and Magno regarding the description of the seized marijuana is too trivial to warrant an acquittal. Whether or not the tea bags contained marijuana leaves and fruiting tops or simply marijuana stalks and seeds does not alter at all the inescapable truth that Vilorio had been caught redhanded in the act of peddling illicit drugs. Besides, the two peace officers could not be faulted for making the wrong analysis of the marijuana because they are not experts in that field.[6]

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The police's alleged inconsistencies with respect to previous surveillance operations on the accused are likewise, immaterial. The fact that Sgt. Sabite testified that the NARCOM made their move on the very day they "busted" him (May 12, 1987) whereas C1C Dauz alleged that surveillance was conducted on the three days prior to his apprehension is not, again, a basis for exoneration. Likewise, NARCOM's alleged lapses can not dissipate the fact that marijuana was found in his possession.

The fact that the prosecution managed to produce but one fifty-peso bill in marked money is not fatal, and is explained by the fact that the accused and his companion, Joel Habner, had split the proceeds before C1C Dauz swooped down on the former. The accused can not say logically that because the prosecution failed to produce in court one bill of the two bills given to him, he is, ergo, innocent. The Court does not find any connection. Indeed, it is non-sequitur.

What is more, he has failed to attribute improper motives to the police, why the latter should falsify evidence at his expense, or why he should be, as he claims, "set up."

The Court can not on the other hand, accept the accused's version that he was merely walking on the street when he was accosted by Joel Habner, who "requested [him] to change into smaller denominations his two P50.00 bills,"[7] and whereupon, NARCOM agents appeared, in order to effect the apprehension. From his narration, Habner was a perfect stranger, and it is to contradict human experience to say that they had met by chance, whereupon, the former asked the latter to "break" a fifty-peso bill, and that he went to lengths to accommodate him. Between his version and the prosecution's we have no difficulty in making a choice.

WHEREFORE, the decision appealed from is AFFIRMED.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, Padilla, and Regalado, JJ., concur.

[1] Branch 15, Zamboanga City; Hon. Jaime T. Hamoy, Presiding Judge.

[2] Decision, rollo, 18-21.

[3] Id., 21-23.

[4] Id., 17-18.

[5] Id., 60.

[6] People v. Vilorio, Jr., G.R. No. 72781, November 29, 1990, 5-6.

[7] Rollo, id., 21-22.

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