

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SALIH JUMA Y SAMPANGMAGA, ACCUSED-APPELLANT.

G.R. No. 90391. March 24, 1993

Ponente: CAMPOS, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-90391/>

CAMPOS, JR., J.:

Accused Salih Juma was charged with violation of Article II, Section 4 of Republic Act 6425, otherwise known as the Dangerous Drugs Act of 1972, in an Information which reads as follows:

"That on or about October 28, 1988, in the City of Zamboanga, Philippines, and within the jurisdiction of this Honorable court, the above-named accused, not being authorized by law, did then and there wilfully, unlawfully and feloniously sell to SSGT. Marino B. Undangan ten (10) sticks of marijuana cigarettes, knowing same to be a (sic) prohibited drugs.

CONTRARY TO LAW."[1]

After trial on the merits, the court found the accused guilty as charged in a decision[*] dated September 8, 1987, the dispositive portion of which reads as follows:

"WHEREFORE, in view of all the foregoing consideration, this Court finds the accused Salih Juma y Sampangmaga guilty beyond reasonable doubt as principal of the crime "Violation of Section 4, Article II, Republic Act 6425, otherwise known as the Dangerous Drugs Act of 1972, as amended", and hereby sentences him to suffer the penalty of life imprisonment and to pay a fine of P20,000.00, and finally to pay the costs.

Being a detention prisoner, the said accused is entitled to the full time of his preventive imprisonment unless he falls within any of the exceptions mentioned in Article 29 of the Revised Penal Code. The fifteen (15) sticks of marijuana cigarettes are hereby ordered destroyed and burned.

SO ORDERED."[2]

On appeal, accused-appellant assigns the following as the errors[3] allegedly committed by the trial court, to wit:

I
THE TRIAL COURT ERRED IN GIVING FULL CREDENCE TO THE TESTIMONIES OF THE TWO WITNESSES FOR THE PROSECUTION.

II
THE TRIAL COURT ERRED IN STATING THAT APPELLANT SALIH JUMA'S TESTIMONY WAS FULL OF INCONSISTENCIES AND IMPROBABILITIES AND BEING EVASIVE.

III
THE TRIAL COURT ERRED IN HOLDING THAT THE EVIDENCE OF THE PROSECUTION HAS ESTABLISHED BEYOND REASONABLE DOUBT THE GUILT OF THE ACCUSED AND IN FINDING THE ACCUSED GUILTY OF AND CONVICTING HIM OF THE CRIME CHARGED.

We have two opposing accounts of the events that spawned the present controversy. The People's version, as summarized by the Solicitor General, is as follows:

"At about 9:00 o'clock in the morning of October 28, 1988, Sergeant Eulolio Reguina (sic) of the Ninth Regional Narcotics Command, Zamboanga City formed a team, headed by himself and composed of Sergeants Marino Undangan, Amirrudin, Guevarra, and Sanori, and proceeded to appellant's house located within the vicinity of CDCP Fort Pilar of said city to conduct a buy-bust operation against him. Sgt. Undangan approached appellant, who was then sitting outside his house and apparently selling marijuana sticks to two persons later identified as Eddie Fernandez and Tony Kamlani, and pretended to buy ten (10) sticks of marijuana cigarettes worth Ten (P10.00) Pesos, while Sgt. Reguina and the other agents deployed themselves a few meters away from the house ready to respond upon signal from the former. After giving the money to appellant and receiving the sticks of marijuana cigarette from him, Sgt. Undangan scratched his head - the pre-arranged signal - and his companions arrested appellant together with Fernandez and Kamlani. Sgt. Reguina received information from a civilian informant the day before that appellant had been selling marijuana in his house, and Sgt. Undangan confirmed said information when, upon instruction of the former, he had conducted a "test-buy" and bought three (3) sticks of marijuana cigarettes from appellant. Appellant was subsequently body-searched and the agents recovered from him the P10.00 bill (Exh. "D") together with two more sticks of marijuana. Both Fernandez and Kamlani were likewise searched and the agents found from them four (4) sticks of marijuana. Consequently, appellant, Fernandez and Kamlani were brought to the NARCOM Station for further investigation. (TSN, July 16, 1989, pp. 10-24).

The sticks of marijuana purchased and seized from appellant were turned over to the PC-INP Crime Laboratory for examination (Exh. "A"). After examination, Forensic Chemist Athena Elisa Anderson reported that the evidence thus examined gave positive result for marijuana (Exh. "B")."[4]

On the other hand, accused-appellant would deny any involvement in the selling of marijuana, alleging that he was framed and forced to admit authorship of the crime. Thus,

"Appellant Salih Juma y Sampangmaga testified that on October 28, 1988 while he, a laborer and a resident of CDCP, Fort Pilar, Zamboanga City, was outside his house watching for ships to arrive, five (5) unknown persons whom he had not seen before asked him about marijuana and that as he told them that he did not know about it, they poked their guns at him and one of them - a big person- handcuffed him. x x x They then brought him with them and was made to board a blue pick-up service. (Tsn. pp. 4-7, July 21, 1989).

When he was made to board the vehicle, Eddie Fernandez, Tony Kamlani, Salih Makra and Salih Alih were already aboard the vehicle. Prior to October 28, 1988 he had not known these four (4) persons apprehended together with him and came to know their names when they were already in the big building. (Tsn. pp. 8-9, July 21, 1989). x x x

They were not bodily searched at the time of their arrest but the search was made when they were already in a big building x x x. (Tsn. pp. 10-11, July 21, 1989).

Appellant Salih Juma was searched including his pocket by the big person who handcuffed him. His pocket contained nothing except his wallet which contained his residence certificate which they got and did not return to him anymore. He had no money at all then. (Tsn. pp. 11-12, July 21, 1989).

They were then brought one by one to a room where a stout person told him to admit that he was selling marijuana. When he told him that he is not selling marijuana, he was mauled by hitting his face with fist blow and kicking him. For six days and six nights he was detained there and after three days and three nights he was mauled and no longer able to resist he admitted their accusation against him. He affixed his signature to a writing after he was assured by them that he will just stay there for 7 days. (Tsn. pp. 12-14, July 21, 1989).

x x x x x x

x x x Subsequently appellant Salih Juma, Eddie Fernandez and Tony Kamlani were brought to the City Fiscal's Office where appellant Salih Juma denied the allegations against him. He did not inform Fiscal Muin about his maltreatment since the NARCOM agents were just near then and he was already warned not to do so since he would be mauled again.

Appellant Salih Juma never met nor seen (sic) Sgt. Undangan before October 28, 1988 and, in fact, saw him for the first time when he was arrested since Sgt. Undangan was then present and came to know his name when they were already at the NARCOM Office. Appellant Salih Juma saw the P10.00 bill (Exh. "D") when they were already at the NARCOM Office together with his residence certificate. (Tsn. pp. 15-16, July 21, 1989). Except for the fact that he was told that he had the right to remain silent, he was not informed of his right to get a lawyer to assist him nor that whatever he tells them may be used against him. (Tsn. p. 16, July 21, 1989)."[5]

We find the People's version, which was upheld by the trial court, more credible than the accused-appellant's. In the face of the clear and convincing evidence against the latter, his defense of frame-up or instigation must fall. In *People vs. Agustin*,^[6] We distinguished entrapment from instigation in this manner:

"Entrapment is the employment of such ways and means for the purpose of trapping or capturing a lawbreaker. Oftentimes it is the only effective way of apprehending a criminal in the act of the commission of the offense. x x x A criminal is caught committing the act by ways and means devised by peace officers.

It must be distinguished from inducement or instigation wherein the criminal intent originates in the mind of the instigator and the accused is lured into the commission of the offense charged in order to prosecute him. The instigator practically induces the would-be accused into the commission of the offense and himself becomes a co-principal. In entrapment ways and means are resorted to for the purpose of capturing the law breaker in flagrante delicto. In entrapment, the crime had already been committed while in instigation, it was not and could not have been committed were it not for the instigation by the peace officer."

In this case, it is very clear that there was no instigation because when the poseur-buyer, Sgt. Undangan, offered to buy marijuana cigarettes from the accused-appellant by handing over to him the P10.00 buy-bust money and in exchange therefor, the latter readily gave him ten (10) pieces of marijuana sticks, the crime was already consummated. All that the NARCOM agents had to do was apprehend the accused. This procedure is commonly known as a "buy-bust" operation which is a form of entrapment employed by peace officers to trap and catch a malefactor in flagrante delicto. It is an effective way of apprehending a criminal in the act of the commission of the offense. Entrapment has received judicial sanction as long as it is carried out with constitutional and legal circumspection.^[7] This requirement was observed, in the present case. That there was no inducement on the part of the NARCOM agents is further bolstered by the fact that the test-buy operation conducted by the same Sgt. Undangan the day before, or on October 27, 1988, yielded the same result, i.e., that the cigarettes the accused was selling were marijuana sticks.^[8] Add to this the fact that before Sgt. Undangan bought the ten (10) sticks of marijuana during the buy-bust operation, two other persons, later identified as Eddie Fernandez and Tony Kamlani, were earlier seen buying from the accused cigarettes which were likewise found to be marijuana sticks,^[9] and for which they were thereafter apprehended. The defense of frame-up or instigation is easy to concoct but difficult to prove. In this case, the prosecution has proved beyond a scintilla of doubt that accused-appellant is indeed guilty as charged. The latter's flimsy denial and self-serving testimony, which was never corroborated, cannot prevail over the overwhelming evidence against him.

Accused-appellant would argue that it was highly improbable and contrary to human experience for him to sell marijuana to a stranger, in a matter of minutes, and amidst a crowd. We do not agree. In *People vs. Simbulan*,^[10] We held that:

"Drug pushers have become increasingly casual about isolated transactions. They have come to consider the sale of drugs as ordinary transactions and the buyers as ordinary users. Drug pushing when done in a small

scale belongs to that class of crimes which may be committed at any time and at any place. After the offer to buy is accepted and the exchange is made, the illegal transaction is completed in a few minutes. The fact that the parties are in a public place and in the presence of other people may not always discourage them from pursuing their illegal trade as such factors may even serve to camouflage the same. Hence, the court has sustained the conviction of drug pushers caught selling illegal drugs in a billiard hall, in front of a store, along a street, and in front of a house. The fact that the buyer is a stranger is of no moment. In real life, pushers, especially small quantity or retail pushers, sell their prohibited wares to customers, be they strangers or not, who have the price of the drug." (Underscoring supplied).

Accused-appellant would also fault the trial court for giving full credence to the testimonies of the two prosecution witnesses, Sgt. Marino Undangan and Sgt. Eulogio Requina. We reiterate, at the risk of being redundant, the time-honored rule that the matter of assigning values to the testimony of witnesses is best performed by the trial courts. Unlike appellate courts, they can weigh such testimony in clear observance of the demeanor, conduct and attitude of the witnesses at the trial. The exception is when the trial court has overlooked certain facts of substance and value that, if considered, might affect the result.[11] We find nothing in this case which would warrant a deviation from the general rule. Furthermore, police officers have in their favor the presumption that they have performed their duties in a regular manner.[12] The accused-appellant in this case has not successfully rebutted such presumption by evidence to the contrary. His allegation of extortion appears to be but a mere after-thought and a figment of his imagination as the same was not substantiated by even an iota of evidence. It was only during the trial on July 21, 1989, or after the lapse of nine (9) months after his arrest when he mentioned being mauled by the NARCOM agents.[13] What is worse is that he never presented any medical certificate to prove the alleged torture. We, therefore, have no basis for sustaining the same.

WHEREFORE, premises considered, the assailed decision is hereby AFFIRMED.
SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, Regalado, and Nocon, JJ., concur.

[1] Records, p. 1.

[*] Penned by Judge Carlito A. Eisma.

[2] Rollo, p. 23.

[3] Appellant's Brief, p. 1.

[4] Rollo, pp. 48-50.

[5] Appellant's Brief, pp. 5-7.

[6] G.R. No. 98362, November 13, 1992, citing *People vs. Gatongo*, 168 SCRA 716 (1988).

[7] *People vs. del Pilar*, G.R. No. 86360, 28 July 1990.

[8] Exh. "B", Original Records.

[9] *Id.*

[10] G.R. No. 100754, October 13, 1992, citing *People vs. Garcia*, 198 SCRA 603 (1991); *People vs. Odieta*, 197 SCRA 448 (1991); *People vs. Bernardino*, 193 SCRA 448 (1991); *People vs. Paco*, 170 SCRA 681 (1989); *People vs. Toledo*, 140 SCRA 259 (1985).

[11] *People vs. Bagista*, G.R. No. 86218, September 18, 1992.

[12] People vs. Agustin, supra, note 6, citing People vs. Agapito, 154 SCRA 694 (1987).

[13] TSN, July 21, 1987, p. 84.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.