

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROBERT MALONZO, DEFENDANT-APPELLANT.

G.R. No. 91695. August 04, 1992

Ponente: NOCON, J.

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NOCON, J.:

This is an appeal from the decision rendered by Branch V of the Regional Trial Court of Manila finding accused-appellant Robert Malonzo guilty beyond reasonable doubt of the crime penalized under Article II, Section 4 of Republic Act No. 6425, as amended by Presidential Decree No. 1675, otherwise known as the Dangerous Drugs Act of 1972, in an information which reads:

"That on or about October 10, 1988, 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 wilfully [sic] and unlawfully sell or offer for sale dried marijuana flowering tops, which are prohibited drugs.

Contrary to law."[1]

Upon arraignment, accused-appellant pleaded not guilty to the crime charged against him.

The facts of the case are as follows:

At around 6 o'clock in the evening of October 3, 1986, Pat. Magnaye, received a telephone call from an informant that there is an active drug selling by appellant Malonzo at the "lungga" located at No. 600 Governor Forbes St., Sampaloc, Mla., which information he immediately relayed to Capt. Cablayan, Chief of the Narcotics Control and Investigation Section, Western Police District, Police Station I. A team was formed composed of Pfc. Francisco Maniquis, Pat. Rizal Papa and Pfc. Valeriano Bautista, with instructions to conduct a surveillance on the aforementioned place.

As a result of the surveillance, the team conducted a buy-bust operation on October 10, 1986 to entrap the pusher. The team members contributed money consisting of four (4) P10.00 bills, one (1) P20.00 bill and three (3) P5.00 bills which were all marked by Pat. Alferos with his initials. Pat. Papa was then designated as the poseur-buyer. The team then proceeded to the "lungga" aboard a private owner-type jeep.[2]

Upon reaching the corner of Fajardo and Gov. Forbes streets, the team met the informant, who introduced Pat. Papa to the accused-appellant as an addict.

Pat. Papa offered to buy one (1) gram of dried marijuana. Accused-appellant agreed to sell it to him for the price of P75.00. He left and then returned with the dried marijuana which he handed to Pat. Papa while the latter in turn handed the money. At this juncture, Pat. Papa and the other members of the buy-bust team apprehended the accused-appellant and confiscated the marked money and the dried marijuana, which was later turned over to police investigator Pat. Bautista who placed the same inside a plastic bag and made the accused-appellant write his initials on it.[3]

Pat. Bautista requested for an analysis of the suspected marijuana at the NBI Forensic Chemistry Section. Susan de Vera, a Forensic Chemist at the NBI conducted a microscopic, chemical and chromatographic examination of the specimen submitted consisting of flowering tops and found the same positive for marijuana.[4] A certification (marked as Exhibit "E") was issued to this effect.

After trial, a decision was rendered by the court a quo, the dispositive portion of which reads:

"WHEREFORE, the Court finds the accused guilty beyond reasonable doubt of the crime as pusher of Marijuana [sic] as penalized under Section 4, Article II, in relation to Section 2, (e-1), (f), (k), (m), and (o), Article I of R.A. 6425 as amended by P.D. 1675, and penalized the accused Roberto Malonzo y Velasco to suffer the penalty of LIFE IMPRISONMENT and pay the fine of Twenty Thousand P20,000.00 Pesos, under Section 4, Article II, Republic Act 6425 as amended.

The dried marijuana flowering tops are confiscated in favor of the State, to be turnover to the Dangerous Drugs Board, Manila and the Seventy Five (P75.00) Pesos marked money be returned to the owner.

SO ORDERED."[5]

Aggrieved by the decision, accused Roberto Malonzo interposes the instant appeal.

Appellant contends that the trial court erred in giving weight and credence to the testimonies of the prosecution witnesses, disregarding the theory of the defense and finding him guilty despite the insufficiency of the evidence.

We are not persuaded.

The errors ascribed by appellant to the trial court are belied by the testimony of Pat. Papa, whose testimony was corroborated by the other members of the buy-bust operation team.

Settled is the rule that the findings of the trial court relative to the credibility of the testimony of the witnesses as well as the witnesses themselves are entitled to great respect and are generally sustained by the appellate court[6] unless some material facts have been overlooked or misconstrued, as to affect the results, which, however We do not find in the case at bar.[7]

There are no attendant circumstances that would justify nonadherence to the rule. In fact, the trial court made a favorable observation on the behavior and deportment of the witnesses. To quote the trial court:

"With the entrapment set were [sic] the police not only witness [sic] but play a hand in its execution and with their own eyes witnessed the sale and exchange of cash for the marijuana by the accused, as against the denial of the accused, the positive testimony of the police shall prevail. The plea of being a born-again Christian notwithstanding, the Court taking into consideration the demeanor and actuation of the witnesses finds the version narrated by the police believable and in consonance with the realities of everyday life in the City of Manila, and finds the overwhelming evidence presented by the prosecution against the accused more than enough to pass the requirements of beyond reasonable doubt and warrants the conviction of the accused of selling marijuana."[8]

In the absence of any evidence to the contrary, credence should be given to the police narration of the incident as they are presumed to have performed their duties in a regular manner.[9] Moreover, no improper motive can be shown on the part of the prosecution witnesses on why they would falsely testify against appellant.[10]

The allegation of the appellant that the buy-bust operation was a frame up, is self-serving. Without any supporting evidence or witnesses to support such allegation, the same cannot be given credit.

The fact that the informer was not presented as a witness is of no moment.[11] The informer merely provided the information which prompted the police officers to conduct a surveillance on the appellant's selling activities of

marijuana. The informer's testimony is merely corroborative of the testimonies of the police officers as to how they came to know that appellant was selling marijuana. He was not an active participant in the buy-bust operation.

Moreover, accused-appellant's entire defense is predicated on a simple denial that he sold one (1) gram of marijuana to the police-buyer. That at the time the incident in question took place, he was outside his house talking with a friend by the name of German de Guzman, but appellant's friend was never presented in court to corroborate his allegation. At any rate, in assessing the credibility of witnesses, greater weight is given to the positive testimony of the prosecution witnesses than to the negative testimony of the accused.[12]

One thing more, appellant's submissive stance right after his entrapment and the absence of any protest on his part when arrested, cast doubt on his alleged innocence.[13]

WHEREFORE, finding the guilt of the accused-appellant Robert Malonzo to have been proved beyond reasonable doubt, the decision appealed herefrom is hereby AFFIRMED in toto.

SO ORDERED.

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

[1] Rollo, p. 1.

[2] T.S.N., April 5, 1988, pp. 5-7, 10-16, 25-28.

[3] Id., at pp. 32-34.

[4] T.S.N., February 22, 1988, pp. 4-8.

[5] Decision, p. 5.

[6] People vs. Sarra, G.R. No. 78530, 183 SCRA 34, (1990).

[7] People vs. Villeza, No. L-56113, 127 SCRA 349, 360, (1984).

[8] Decision, pp. 4-5.

[9] People vs. Vocente, G.R. No. 80533, 188 SCRA 100, (1990).

[10] Ibid.

[11] People vs. Bernardo, G.R. No. 89542, 186 SCRA 876, (1990).

[12] People vs. Mostoles, No. L-38644, 124 SCRA 906 (1983).

[13] People vs. Madarang, No. L-70569, 147 SCRA 123, (1987).

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