

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. WINNIE LABRA Y BAQUILAR, ACCUSED-APPELLANT.

G.R. No. 98427. November 20, 1992

Ponente: PADILLA, J.

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PADILLA, J.:

Appellant Winnie Labra was charged for violation of Section 4 of Republic Act No. 6425, as amended, otherwise known as the Dangerous Drugs Act of 1972.

The information filed by the City Prosecutor of Iloilo alleged:

"x x x. That on or about the 11th day of September, 1990 in the City of Iloilo, Philippines and within the jurisdiction of this Court, said accused, with deliberate intent and without any justifiable motive, did then and there wilfully, unlawfully and criminally sell, deliver and distribute marijuana leaves a prohibited drug, that one (1) pack of dried marijuana leaves and the amount of P60.00 (3 pcs. P20.00 bills) were taken from his possession.

CONTRARY TO LAW.

City of Iloilo, Philippines, September 12, 1990."[1]

The accused pleaded not guilty to the charge. During the trial, the prosecution presented the following witnesses: Police Corporal Gregorio Gupiteo, Jr., Police Exhibits Custodian, Capt. Zenaida Sinfuego, Forensic Chemist of Region VI PC-INCP Crime Laboratory, Camp Delgado, Iloilo City, and PC Sgt. Danilo Gallego of the PC Task Force Iron Eagle, Recom 6, Iloilo City. The accused was the lone witness for the defense.

The case for the prosecution, as found by the trial court, is as follows:

"x x x on September 11, 1990, acting on a tip from a civilian informant that the accused Winnie Labra was selling marijuana at Barangay Hipodromo, Iloilo City, Sgt. Danilo Gallego and other members of his team proceeded to the place to conduct a buy-bust operation. Before hand, they marked three twenty (20) - peso bills bearing Serial Nos. GS 998878, BN 610113 and JH 899718 (Exhibits "B", "B-1", and "B-2") which they thereafter delivered to their civilian informant, who was to act as the poseur buyer. At the locus criminis, they posted themselves across the street and at other strategic places. The accused was then contacted by the poseur buyer through somebody, and shortly thereafter Winnie Labra showed up, and, after a brief exchange of words, Winnie Labra went back to the house where he came from and emerged thereafter. The poseur buyer handed him the three 20-peso bills, and in exchange, Winnie Labra was about to hand the poseur buyer a pack of marijuana dried leaves (Exhibit "A"), when, at this point Sgt. Danilo Gallego and his team closed in, and after announcing themselves as PC soldiers, apprehended Winnie Labra and brought him to PC Camp Delgado, Iloilo City. The raiding team took from him the three 20-peso bills and the pack containing marijuana (Exh. "A") as evidence. Sgt. Gallego and his companions then took from the pack, Exhibit "A", some samples (Exhibit "E"), had the same examined by Forensic Chemist Zenaida Sinfuego at the PC Crime Laboratory at Camp Delgado, which, after tests were to be marijuana (Exhibits "D" and "D-1")."[2]

On the other hand, the defense version is as follows:

"x x x Winnie Labra claimed that he was framed-up by the Philippine Constabulary operatives using a certain 'Ka Nene' as intermediary x x x. He testified that he stayed up late on his job at the Iloilo Fishing Port in the evening of September 10, 1990 and decided to sleep the following day. He was however awakened by his second cousin Alfredo Alamo at about 2:00 o'clock in the afternoon and told that somebody was looking for him. He peeped through his window and saw that it was 'Ka Nene' whom he had previously known because the latter frequents the house at Hipodromo street where he was staying. He saw 'Ka Nene' sitting on a bench at a store located about two meters away from the house where he was residing. When he went out of his house and approached 'Ka Nene', the latter asked him where was the house of a certain Jun Antoniano, a student of the University of Iloilo. He then pointed the house of Jun Antoniano to 'Ka Nene', after which, he sat down on the bench by the store, being still sleepy. Suddenly, somebody held him by the back part of his shirt. The accused asked him what he had done but the person who held him, and who refused to identify himself, simply exclaimed 'Upod lang' (Just come along). The accused refused at first, but the stranger was armed and so, he decided to go along. They were met on the way by a big fellow and they thereafter forced him to ride on a tricycle and brought to Camp Delgado, Iloilo City. No warrant for his arrest was shown to him. When he was frisked, nothing was found in his person. 'Ka Nene' suspiciously vanished from the scene. He eventually identified PC Sgt. Danilo Gallego to be the one who forcibly brought him to the PC Headquarters at Camp Delgado. At the Camp, he was investigated and asked who was this Jun Antoniano. Thereafter, he was brought to the PC Crime Laboratory where he saw the marked money, Exhibits 'B', 'B-1' and 'B-2', and the marijuana marked as Exhibit 'A'. Captain Sinfuego received samples of the marijuana marked as Exhibit 'E' which she then tested. The accused claims that it was only at the PC Crime Laboratory that he saw the marijuana and the marked money for the first time. He disclaims having been caught selling Exhibit 'A' to the informant and having been found in possession of the three 20-peso bills, Exhibits 'B', 'B-1' and 'B-2'.

x x x the accused explained that 'Ka Nene', a resident of the District of La Paz, Iloilo City, often comes to the house where he is residing because 'Ka Nene' is a friend of the daughter of the houseowner; that when 'Ka Nene' visits the place, he talks to everybody in the house as he is acquainted with virtually all of them; that 'Ka Nene' is personally known to his second cousin Alfredo Alamo, the one who woke him up." [3]

After trial, the court a quo rendered a decision dated 28 December 1990, the dispositive portion of which states:

"IN VIEW OF THE FOREGOING CONSIDERATIONS, this Court finds the accused WINNIE LABRA guilty beyond reasonable doubt of the violation of Section 4, Article II of Republic Act No. 6425 as amended (sic), otherwise known as the Dangerous Drugs Act, and hereby sentences him to suffer the penalty of life imprisonment and to pay a fine of twenty thousand pesos, to suffer the accessory penalties provided for by law and to pay the costs. x x x.

SO ORDERED." [4]

Winnie Labra appeals his conviction, praying for a reversal of the judgment, for alleged failure of the prosecution to prove the appellant's guilt beyond reasonable doubt. Accused-appellant assigns the following errors allegedly committed by the trial court:

"I. x x x IN CONCLUDING THAT THE GUILT OF THE ACCUSED WAS PROVEN BEYOND REASONABLE DOUBT WHEN THE PROSECUTION FAILED TO PRESENT THE ALLEGED POSEUR-BUYER, AN INDISPENSABLE WITNESS.

II. x x x IN GIVING FULL CREDENCE TO THE EVIDENCE FOR THE PROSECUTION AND TOTALLY DISREGARDING THAT OF THE DEFENSE." [5]

Once more, the Court is asked to resolve a question involving a balance between the constitutional presumption of innocence and the duty of ferreting out those who transgress the law and in the process assist in stamping out this

ruthless network of "users" and "pushers" of prohibited drugs.[6]

The constitutional presumption of innocence can only be overcome by proof of guilt beyond reasonable doubt.

After a careful examination of the proceedings in the trial court, we are convinced that the presumption of innocence has been sufficiently overcome by the prosecution's evidence. We, therefore, affirm the judgment of conviction against the accused-appellant.

The present case is to be distinguished from cases where the failure to present the poseur-buyer proved fatal to the prosecution. In *People vs. Olaes*[7] we stated that:

"x x x this case exemplifies the instance where the non-presentation of the supposed poseur-buyer is fatal to the prosecution's case. The records show that the alleged sales transaction took place inside the house of appellant. In other words, the transaction was supposedly witnessed only by the poseur-buyer, Manuelito Bernardo. Only he has personal knowledge of such transaction x x x."

Likewise, in *People vs. Ramos*[8] we held that:

"x x x. The testimony of the poseur-buyer is rendered compelling by the fact that the police officers were situated three blocks away from where the alleged sale took place. They did not see the actual sale of marijuana. x x x."

It is clear from the two (2) cited cases that the rule that the non-presentation of the poseur-buyer is fatal to the prosecution is not absolute. Thus in *People vs. Napat-a*[9] the non-presentation of the poseur-buyer did not destroy the case for the prosecution, for the sale and actual delivery of marijuana by appellant were witnessed by police officers who testified at the trial.

In the case at bar, Sgt. Gallego in his testimony[10] stated that he personally witnessed the sale of marijuana by the accused from a distance of ten (10) meters, in an open area at around 2:30 p.m. In the absence of proof of motive to falsely impute such a serious crime against accused-appellant, the presumption of regularity in the performance of official duty as well as the findings of the trial court on the credibility of witnesses should prevail over the self-serving and uncorroborated claim of having been "framed".[11] The testimony of a single witness, if credible and positive, is sufficient to convict. Sgt. Danilo Gallego's testimony was clearly sufficient since he in fact witnessed the sale of marijuana. Accused-appellant failed to establish ill motive on the part of Gallego and neither was he able to satisfactorily show that he was "framed."

The defense of being "framed" is quite easily fabri-cated and in the presence of clear and positive evidence for the prosecution should not give rise to an acquittal, unless such defense is clearly established by evidence other than the sole testimony of the accused. The prosecution, having shown through clear, positive and convincing evidence that accused had sold marijuana, the burden then shifted to the accused to rebut this by showing clear and positive evidence of being "framed". Labra's sole testimony, uncorroborated by the testimony of other witnesses who, according to his version, could support the allegation that he was "framed", cannot overcome the prosecution's evidence of guilt.

WHEREFORE, the appealed decision is hereby AFFIRMED with costs against the appellant.

SO ORDERED.

Cruz, (Chairman), Grino-Aquino, and Bellosillo, JJ., concur.

[1] Rollo, p. 11

- [2] Rollo, p. 12
- [3] Rollo, pp. 12-14
- [4] Rollo, pp. 17-18
- [5] Rollo, p. 28
- [6] People vs. Mendoza, G.R. No. 85176, October 21, 1991, 203 SCRA 148
- [7] G.R. No. 76547, July 30, 1990, 188 SCRA 91, 95
- [8] G.R. Nos. 85401-02, June 4, 1990, 186 SCRA 184, 192
- [9] G.R. No. 84951, November 14, 1989, 179 SCRA 403
- [10] TSN, November 29, 1990, pp. 14-23
- [11] People vs. DeKingco, G.R. No. 87685, September 13, 1990, 189 SCRA 512

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