

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SIDRO DORO Y DALIGUIS AND REYNARIO GANAB Y GAMUEDA, ACCUSED-APPELLANTS.

G.R. No. 99866. June 02, 1993

Ponente: PADILLA, J.

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PADILLA, J.:

Accused-Appellants SIDRO DORO y DALIGUIS and REYNARIO GANAB y GAMUEDA were charged with attempting to transport two (2) bricks of dried marijuana flowering tops in violation of Article 21 of Republic Act No. 6425 as amended otherwise known as the Dangerous Drugs Act.[1]

Both pleaded not guilty and after trial, a decision dated 10 April 1991 was rendered, the dispositive portion of which reads:

"WHEREFORE, the Court finds the accused Sidro Doro y Daliguis and Reynario Ganab y Gamueda Guilty beyond reasonable doubt of attempting to transport 2.2 Kilos of marijuana (Indian hemp) in violation of Section 21(b), Article IV, in relation to Section 4, Article II, and Section 2(e) (1), Article I of Republic Act 6425, as amended, and hereby sentences each of them to life imprisonment and to pay a fine of Twenty Thousand (P20,000.00) Pesos each, without subsidiary imprisonment in case of insolvency, and to pay proportionate costs.

x x x x x x x x

The accused Sidro Doro y Daliguis and Reynario Ganab y Gamueda, being detention prisoners, are entitled to be credited 4/5 of their preventive imprisonment in the service of their sentence under Article 29 of the Revised Penal Code.

SO ORDERED."[2]

In their appeal to this Court, the accused-appellants assign the following errors to the trial court:

"x x x IN FINDING ACCUSED-APPELLANTS GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED AS IT ALSO ERRED IN NOT APPRECIATING THE EVIDENCE FOR THE DEFENSE.

"x x x IN ADMITTING THE EVIDENCE OF THE CRIME SINCE THE ARRESTS OF THE ACCUSED-APPELLANTS AND THE SEARCH ON THEIR PERSONS AND BELONGINGS WERE DONE IN VIOLATION OF THEIR CONSTITUTIONAL RIGHTS."[3]

The evidence upon which the trial court based the conviction is summarized as follows:

"x x x in the morning of June 5, 1990, the Intelligence Section of the 191st PC Company at Tuba, Benguet received information from their civilian informer that there are two persons who are going to transport marijuana thru the Philippine Rabbit Bus that day. Since the names and features of the two persons who were to transport the marijuana were not given, as well as the time and bus number were not known, the team of the

Intelligence Section of the 191st PC company did not secure anymore a search warrant but instead immediately responded to said information and proceeded to the bus terminal of the Philippine Rabbit Bus at Magsaysay Avenue, Baguio City. The team was composed of C1C Paul Mencio, Sgt. Artemio Fernandez and C1C Rodrigo Llabares, who were accompanied by their civilian informer, who shall pinpoint the two persons who will be transporting marijuana.

The PC team conducted surveillance according-ly at the Philippine Rabbit Bus Terminal for about 3 hours beginning at 2:00 PM until about 5:00 PM of June 5, 1990 when finally their civilian informer saw the two suspects who were going to trans-port the marijuana on board the Philippine Rabbit Bus No. 409 which at that time was about to depart for Laoag City at 5:00 PM as its engine was already on. After the civilian informer pointed to the suspects in secret to one of the PC team as the one dressed in red jacket in particular, the PC team made their move to arrest the suspects who turned out to be accused Sidro Doro and Reynario Ganab.

C1C Paul Mencio and Sgt. Artemio Fernandez introduced themselves as PC members to the suspects and asked what the two were holding on their laps. And the two voluntarily opened the packages wrapped in newspaper like a brick. And when it was found to be marijuana, the PC apprehended the two and brought them to their headquarters at Tuba, Benguet. x x x"[4]

Three (3) witnesses for the defense, Nestor Gatchalon, a security guard of the Philippine Rabbit Bus Lines, Joseph Dy, one of the passengers, and accused-appellant Sidro Doro presented a different version of the events which led to the arrest of the two (2) accused, as follows:

"Accused-appellants were on board Philippine Rabbit Bus No. 409 bound for Laoag City which was about to depart when two men (C1C Paul Mencio and Sgt. Artemio Fernandez) boarded the same, proceeded to where Doro and Ganab were seated, identified themselves as "NARCOM agents" and asked the two to go down with them. Since these two men who were then forcing them to go down were in civilian clothes, Sidro Doro asked that they be assisted by any of the security guards on duty at the Philippine Rabbit Bus Terminal. C1C Mencio and Sgt. Fernandez alighted from the bus and called for Nestor Gatchalon, a security guard who was then on duty at that time. It was Gatchalon who convinced the two accused-appellants to go down the bus and to talk with C1C Mencio and Sgt. Fernandez so as not to disturb the other passengers in the bus. Accused-appellants went down the bus and it was then when they were collared and were asked by the "NARCOM agents" where the bag they were carrying was. The "NARCOM agents" forced the accused-appellants to bring out the bag but to no avail. The security guard suggested that they should let all the passengers bring down all their baggages (sic).

The security guard stood guard at the door of the bus as the passengers were bringing down their luggages (sic) while the accused-appellants were being guarded by the other companions of (the) "Narcom agents" outside the bus. When finally all the passengers were able to alight from the bus with their baggages (sic), there was one black elongated bag that was left behind inside the bus. One of the "NARCOM agents" took it and opened the same in the presence of the security guard. The black bag contained marijuana. The "NARCOM agents" took with them the bag and the accused-appellants and left the bus terminal by boarding an owner type jeep. x x x"[5]

The issue before this Court is one concerning the credibility of witnesses.

The rule in this jurisdiction is well-settled that the trial court which had the opportunity to observe the conduct and demeanor of each witness is the best judge of the credibility of each witness.[6]

Accused-appellants seek reversal of the judgment of conviction based on the allegation that the sole testimony of C1C Paul Mencio failed to overcome the constitutional presumption of their innocence and further contend that the testimonies of Gatchalon and Dy, who are both disinterested witnesses, and whose testimonies corroborated each other, are enough to show that the version of the prosecution is fabricated. The defense also claims that it is

contrary to common experience for a drug carrier to openly carry a "brick-sized" package of marijuana on his lap while riding on a public utility bus. Accused-appellants contend that the "more probable truth is the version of the witnesses for the defense - that the two (2) bricks of marijuana were placed in a black bag, which ownership (sic) was never established." [7]

A careful review of the records of this case shows no compelling reason to disturb the findings of the trial court. The trial court gave more credence to the testimony of C1C Paul Mencia who, being a law enforcer, is presumed to have regularly performed his duty in the absence of proof to the contrary. [8] There being no indication that C1C Paul Mencia had any motive to falsely testify against the accused-appellants, his sole testimony being credible and positive is sufficient to convict. [9] The attempt to transport marijuana on board Philippine Rabbit Bus No. 409, committed by the accused-appellants, having been established by the prosecution, the presumption of innocence has been overcome by proof beyond reasonable doubt.

The validity of the search and seizure, as correctly pointed out by the Solicitor General, was aptly synthesized by the trial court when it stated that the accused-appellants effectively waived any objection to the warrantless search and seizure by voluntarily opening the packages without demanding a warrant. [10]

WHEREFORE, the decision appealed from is hereby AFFIRMED.

SO ORDERED.

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

[1] Rollo, p. 4

[2] Rollo, p. 19

[3] Rollo, p. 33

[4] Rollo, p. 12

[5] Rollo, p. 33

[6] People v. Turla, G.R. No. 70270, 11 November 1988, 167 SCRA 278

[7] Rollo, p. 14

[8] People v. De Jesus, G.R. No. 71942-43, 13 November 1986, 145 SCRA 521

[9] People v. Basilan, G.R. No. 66257, 20 June 1989, 174 SCRA 115

[10] Rollo, pp. 13-14

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