

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ANDRU LAPATHA AND JOSEPH MARIA JOPSON,
DEFENDANTS-APPELLANTS.**

G.R. Nos. 63074-75. November 09, 1988

Ponente: PADILLA, J.

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PADILLA, J.:

This is an appeal from the decision,[*] dated 12 August 1982, of the Court of First Instance of Iloilo, 11th Judicial District, Branch IV, in Criminal Case No. 13118, finding Andru Lapatha and Joseph Maria Jopson guilty beyond reasonable doubt of violation of Section 21 of Republic Act No. 6425 (Dangerous Drugs Act of 1972, as amended) and sentencing them to suffer the penalty of life imprisonment, to pay a fine of P20,000.00, to pay the costs, and to suffer all the accessory penalties provided by law.

At the lower court, two (2) criminal cases (Nos. 13118 and 13119) were initially filed, the first, against the accused Andru Lapatha and Joseph Maria Jopson, the second, against accused Andru Lapatha alone. The information against both accused in Criminal Case No 13118 for violation of Section 21, Article II, Republic Act No. 6425, averred:

"The undersigned City Fiscal hereby accuses Andru Lapatha and Joseph Maria Jopson, for violation of Section 21, Article II, Republic Act No. 6425, otherwise known as the Dangerous Drugs Act, committed as follows:

"That on or about the 2nd day of March 1981, in the City of Iloilo, Philippines, and within the jurisdiction of this Court, said accused, conspiring and confederating between themselves, working together and helping one another, with deliberate intent and without any justifiable motive, did then and there willfully, unlawfully and criminally sell without being authorized by law, one (1) matchbox of dried Indian Hemp (Marijuana) leaves, a prohibited drug, to a certain Susie Ariete inside the compound of the University of San Agustin, Iloilo City.

"CONTRARY TO LAW."[1]

On the other hand, in Criminal Case No. 13119, accused Andru Lapatha was charged with violation of Section 8 of the same Act, in the following information:

"The undersigned City Fiscal accuses Andru Lapatha for Violation of Section 8 of R.A. 6425, otherwise known as the Dangerous Drugs Act of 1972, committed as follows:

"That on or about the 2nd day of March, 1981, 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 have in his possession and control one (1) matchbox of dried Indian Hemp (Marijuana) leaves, a prohibited drug, without authority to possess the same.

CONTRARY TO LAW."[2]

Upon arraignment, the accused in both criminal cases pleaded not guilty to the crimes charged.

Accused Lapatha and Jopson agreed on a joint trial, the two (2) criminal cases having arisen from the same occurrence. Accused Jopson, through counsel, filed a motion for admission to bail and fix bail, dated 26 March 1981, which was adopted by accused Lapatha. The trial court denied the motion in its Order dated 8 June 1981.

As summarized by the Solicitor General, the prosecution's evidence is to this effect -

"Susie Ariete was a student of the University of San Agustin on March 2, 1981 when Andru Lapatha was introduced to her by appellant Joseph Maria Jopson, also a student of the same university (pp. 51-52, tsn, April 15, 1981). In turn she first met Jopson in January of the same year through her classmates (p. 51, tsn, Id.).

"At about 2:00 o'clock in the afternoon of March 2, 1981, Susie Ariete, who was then working for the Constabulary Anti-Narcotics Unit (CANU) as an informer, approached Jopson at the gate of their school campus and asked him 'if he has a stuff'. By 'stuff', Ariete meant marijuana. Jopson replied that he had a friend who had the 'stuff'. Ariete then told Jopson to see her at the school chapel at or about 4:00 o'clock that afternoon. Thereafter, she called up Sgt. Ramon Legaspi of the CANU by phone. She told him to bring the money for her because she was going to have a transaction with one Joseph Jopson. At about 3:10 that afternoon, Sgt. Legaspi met Ariete in the university chapel (pp. 52-56, tsn, Id.).

"Sgt. Legaspi and his companions, Cpl. Johnny Cabalum, Sgt. de la Cruz and Pat. Parreno made a surveillance inside and outside of the campus when they arrived (pp. 5-6, tsn, April 13, 1981). The suspects, Jopson and Lapatha were seen near the school chapel. Jopson came ahead of Lapatha (pp. 6-9, 10-11, 12, tsn, Id.).

"Jopson arrived at the chapel after Ariete had already met and talked with Sgt. Legaspi who thereafter stood at the side of the chapel talking with a Mr. Garcia (p. 51, tsn, April 15, 1981). Ariete and Jopson looked at each other meaningfully and Jopson said 'wa-ay pa' (there is none yet). Jopson then left but later he returned with Lapatha whom he introduced to Ariete in this manner: 'this is Andru who owned the stuff.' Ariete then said she will buy one 'stuff' and Lapatha said he will get the stuff from his house. The three parted (pp. 58-61, tsn, Id.).

"Later, Ariete, Jopson and Lapatha met at the school cafeteria. Ariete first waited for Jopson at the chapel and then they proceeded to the cafeteria where Lapatha was waiting. Ariete sat beside Lapatha who told her 'to get the stuff on the table'. It was inside a matchbox placed on top of the table just in front of Ariete. Ariete smelled the 'stuff' and told Lapatha that she would pay after she had shown it to her friend because she was not sure if it was strong enough. Lapatha agreed. Ariete asked them to go with her to the chapel where she said her friend waited but Jopson and Lapatha refused because they were afraid of some hitch or 'sabit'. While they were walking, Ariete kept on smelling the 'stuff' and when Jopson and Lapatha refused to go with her to the chapel, she told them she was convinced the stuff was strong enough and she gave the money to Lapatha while they were near the publication building (pp. 61-64, tsn, Id.). When Ariete gave the money (P45.00) which she received from Sgt. Legaspi to Lapatha, the latter told her to give it to Jopson who received the money which he later gave to Lapatha. The two then walked towards the cafeteria. Ariete thereafter gave the matchbox to Sgt. Legaspi whom [sic] she was walking in the campus (pp. 64-65, tsn, Id.).

"The movements of Ariete, Jopson and Lapatha were all observed by Sgt. Legaspi and Cpl. Cabalum who were about seven yards away from them. The CANU men saw the delivery of the matchbox and the turnover of the money. Cpl. Cabalum made the arrest outside of the canteen while Sgt. Legaspi stood at the door. The marked money that was recovered from the right breast pocket of Lapatha's shirt was then submitted to the PC headquarters (pp. 14-17, tsn, April 13, 1981). The contents of the matchbox was [sic] brought to the PC Crime Laboratory for analysis and was [sic] found positive for marijuana (pp. 17, 22, tsn, Id.). Jopson and Lapatha were brought to the office of the CANU and were investigated by Pat. Jorge Parreno (pp. 23, 24, tsn, Id.)."[3]

The defense had two (2) versions of the whole incident.

First, Jopson's defense, as synthesized by the trial court -

"On March 2, 1981, he was a third year irregular student of the University of San Agustin. He had a class at 4:30 P.M. He went to the campus at 2:00 P.M. to see the football game. Because the game had not yet started he went to the cafeteria to take coffee, after which he went outside the campus to buy cigarettes. Upon his return inside the campus he met Susie Ariete whom he had known for sometime. Susie asked him if he had classes, he told her that he had classes later but he will observe the basketball game. Susie suggested that they converse and he told her that he will go to the library and on the way Susie asked him to look at her eyes to see if he could detect anything, so he looked at her eyes, then told her that her eyes were all right. Susie told him that she was taking Mercudol, she had serious problems, wanted to forget them, but she had not taken enough. She later said: 'Seph, do you have marijuana, please give me'. He told her that he does not indulge in it. Susie pleaded even while they were in the library. Because of her repeated pleadings he was irritated so he promised he will ask from his friends. Susie left him in the library but soon returned with a companion she introduced as a cousin who had money and needed the stuff. He left Susie as he was to see the football game but went out of the main gate to light his cigarette. He met Andru Lapatha, a friend he had not seen for a long time, near the main gate. On their way to the football game Susie who was near the chapel, asked him where they would meet again and he told Susie they would meet there. Susie told him she already knew Lapatha. After the 1/2 football game was finished, because he had no more cigarette, he went to the main gate to buy cigarettes, Susie was near the chapel, she made sign if he was able to procure the stuff, he signalled that he was not able, then he proceeded to buy cigarettes. On his way back to the football game, he saw Susie talking to her cousin he later learned is Sgt. Legaspi Susie inquired about the stuff, and he told her she [sic] might see his friend. He had friends smoking marijuana. After half of the football game, he again went out to buy cigarettes, he again saw Susie who was sitting on the stairs of the chapel, and he told Susie that he may not be able to provide her. After buying cigarettes, he went inside for his classes. After waiting for his teacher for 15 minutes he went to the grandstand, it was 4:45 P.M. There was no more game, he inquired about the score and the schedule the next day as he was to play, he being a member of the Varsity Team. There he met again Andru Lapatha and they conversed. The two of them left the grandstand, Lapatha invited him to take coffee, he declined as he had already taken coffee. Only Lapatha took coffee in the cafeteria while he went to the quadrangle behind the administration building to see the parlor games being played. While there Susie passed by, touched him, and asked him to accompany her as she was afraid. He told Lapatha who was still inside the cafeteria that he was to accompany Susie. Susie reiterated her need for drugs and he told Susie that he was ashamed [sic] to ask his friends. Susie told him it was late so she was to go home, he told her that he would also go home, and they walked to the direction of the comfort room. On their way Susie told him that Lapatha was beckoning him, he looked back, and he saw Lapatha beckoning to stop and wait. Susie continued walking, saying she would go home. The moment Lapatha joined him near the comfort room behind the cafeteria P/Cpl. Johnny Cabalum arrived and arrested Lapatha and him, without telling them why when they asked. He was searched by P/Cpl. Cabalum without a search warrant, nothing was found in his person. P/Cpl. Cabalum thereafter searched Lapatha who was near him. He did not see anything, paper bills or marijuana, recovered by P/Cpl. Cabalum from Lapatha. He saw the marked money only in the CANU office." [4]

Second, the theory of accused Lapatha, also as found by the trial court -

"He was taking mechanical engineering in the University of San Agustin in 1976. He enrolled in 1979, then stopped to attend to the dried fish business of his father who got sick of a heart ailment.

"In January 1981 he was going to the University of San Agustin to train the Technology faculty basketball team for the intramural games. He trained them for two weeks. That time his dried fish business was off season.

"He was a basketball player of the technology team for three years and after he had left school he always observed the games when he happened to be in Iloilo City.

"In the afternoon of March 2, 1981 he went to the University of San Agustin as there were intramural games and he wanted to meet former classmates and faculty members.

"At about 4:10 P.M. he met Jopson, whom he did not meet for a long time, in front of the administration building right after entering the main gate. They walked together toward the quad-rangle to see the game, Jopson telling him he was to go to his classes. On their way a girl approached them, Jopson introduced the girl to him, the girl is either named Susie or Susan, surnamed Ariete. He did not know the girl, he did not remember meeting her before, but the girl told him that she knew him. After Jopson had left for his classes, the girl talked to him about drugs and marijuana and asked him if he smoked marijuana. He answered that he does not, the girl ridiculed him and told him he is back-ward in civilization. The girl told him: "If you have friends who need marijuana, just tell me". He answered that he did not have. He was bored with the conversation, so he asked permission to leave and left. He intended to go to the Teacher's College but he observed the game for a short time then went around thinking he might meet friends. While standing, somebody touched him and upon looking behind he again saw the girl. The girl told him that she was only joking when she told him she had marijuana, because she was the one in need of marijuana and had taken Mercudol as she had serious problem. He told her that he had already told her he does not use marijuana. He left the girl at the quadrangle at about 4:45 P.M. and proceeded to the technology building to see a friend, a faculty member, but he had classes so he proceeded to the grandstand to see the football game.

"Because the girl confided to him her need for marijuana, he intended to report to the security guard should the girl continue following him. He met P/Cpl. Cabalum whom he had known to be with the CANU, a student and a basketball player of the university, they greeted each other, but he did not think of reporting the girl to him.

"He met Jopson at the grandstand. From there they went to the canteen, he entered the canteen where he took coffee, but Jopson did not join him as he had already taken coffee, he was left at the quadrangle to observe the games. While he was inside the canteen he saw the girl peep thru the door of the canteen but he [sic] did not go to him, that time Jopson was in the quadrangle. After peeping the girl met Jopson and when he saw the two leave, because he was afraid Jopson might be involved with the girl, he beckoned Jopson who was near the publication building, and he proceeded to the hallway going to the high school building. Jopson and he met at the place indicated on the sketch, Exhibit 1, Lapatha, as Exhibit 1-a. Where the girl went he did not know. After Jopson and he met at that place, he saw P/Cpl. Cabalum approaching them. Cpl. Cabalum ordered them to lean against the cement wall, searched them, searching Jopson first, telling them that he was looking for a matchbox of marijuana. Not finding the marijuana after searching him, Cabalum asked: 'Where is the money'. No money was recovered from him. Cabalum did not get the loose change he had. They were thereafter brought outside the university campus."[5]

After trial, the trial court rendered judgment as follows:

"WHEREFORE, judgment is hereby [sic] rendered in Criminal Case No. 13119 acquitting the accused, Andru Lapatha, with costs de officio, and in Criminal Case No. 13118 judgment is hereby rendered finding the accused, Andru Lapatha and Joseph Maria Jopson, guilty beyond reasonable doubt of violation of Sec. 4 of Republic Act No. 6425 as amended by Presidential Decree No. 1675, and sentencing the said accused to suffer the penalty of Life Imprisonment, to pay a fine of P20,000.00, to pay the costs, and to suffer all the accessory penalties provided for by law." (Original Records, p. 355)

The two (2) accused appealed to this Court. Later, Andru Lapatha withdrew his appeal, thereby leaving Joseph Maria Jopson as sole appellant.

In this appeal, appellant Jopson contends that the trial court erred in finding that he conspired, confederated and helped Andru Lapatha in the questioned sale of the marijuana leaves.

We find merit in the appeal.

At the outset, it is to be noted that the trial court found the instant case as one of entrapment. It held thus:

“From the evidence of the prosecution, the arrest of the accused was a pure case of entrapment . . . [6]

"x x x x x x x x

"Susie trapped Joseph Jopson into securing one who could sell marijuana to her and thereafter she informed Sgt. Legaspi of the expected sale of marijuana to her . . . "[7]

While the rule is that great weight and respect should be accorded to trial court's findings (save where there is a showing that the trial court overlooked, misunderstood or misapplied some fact or circumstance of weight and substance that would affect the result of the case)[8], still, considering the harshness of the penalty imposed on the herein appellant, the Court is compelled to most carefully examine the evidence presented in this case. "The penalty imposed by law is based on legislative policy. Its harshness calls for extra careful attention to the evaluation of evidence either incriminating or exculpating an accused." [9] After going through the records of this case, it can not be helped but asked whether the case is really one of entrapment. And we are not in agreement with the trial court in its finding that it is so.

In its judgment convicting the appellant, the trial court relied heavily, if not entirely, on the testimony of the prosecution witnesses - Susie Ariete who joined the CANU as its informer starting on the third week of February, 1981; [10] Sgt. Ramon Legaspi who went to the school campus bringing the marked money bills and conducted a surveillance upon being informed by Ariete that the sale of marijuana leaves would transpire; [11] and Cpl. Johnny Cabalum who accompanied Sgt. Legaspi, and arrested Jopson and Lapatha. [12]

The Court observes, however, that as admitted by the prosecution witness, CANU informer Susie Ariete (Susie, hereafter) on that fateful afternoon of 2 March 1981, it was she (Susie) who pleaded and insisted to buy marijuana from accused Lapatha. Susie's testimony runs as follows -

Atty. CASTRO (on cross examination):

"Q.

In the afternoon of March 2, 1981, did you meet the accused, Andru Lapatha by chance or did you individually look for him in the early afternoon of March 2?

A.

No, it was by chance that I saw him.

Q.

And you proposed to him that you are going to buy marijuana?

A.

I asked him about it.

Q.

It was through your insistence that he forced himself to contact a friend?

A.

Yes, sir.

Q.

The accused Andru Lapatha was not offering you. So you were the one insisting, pleading to buy from him?

A.

Yes, sir."[13] (underscoring ours)

Also, at the time Susie met appellant Jopson that early afternoon of 2 March 1981, the former pleaded and insisted on her desire to buy marijuana, coupled with Susie's disguised appearance that she needed it. In her testimony, Susie states:

"Fiscal Llariza:

“Q.

x x x Please tell the Honorable Court the exact language you use in asking Joseph Maria Jopson.

A.

"Joseph, may ara ka da sang stuff? Wala gid". (Joseph, do you have stuff? I do not have any.)

Q.

What else did Joseph Maria Jopson say if any?

A.

In vernacular, sir?

Q.

In vernacular.

A.

"Pero kon kinahanglanon mo gid, kadtu-an ko ang amigo ko sa Texas. (But if you really need it, I will go to my friend in Texas) (underscoring ours)

Q.

After hearing that from Joseph Maria Jopson, what did you do?

A.

I asked him if he can see me in the chapel." [14]

Therefore, Jopson agreed to contact Lapatha not because he (Jopson) wanted to sell marijuana to Susie Ariete but because of Susie's plea to buy marijuana, and because he (Jopson) thought Susie needed it. Clearly, therefore, Jopson was not looking for buyers at the time he and Susie first met in that afternoon of 2 March 1981.

Moreover, it is to be noted that Jopson denied having participated in the questioned sale of marijuana. In fact, as found by the trial court, it was Lapatha alone who handed and sold to Susie the matchbox of marijuana. [15] In addition, at the time of the arrest of Jopson and Lapatha by the lone apprehending CANU officer, Jopson was not found in possession of either marijuana leaves or the marked money bills. Said bills were recovered from Lapatha alone while the matchbox of marijuana at the time of arrest was not found with either of the two (2) accused but in the possession of the CANU officer, Sgt. Legaspi.

It is to be further noted that the prosecution witnesses, upon whose testimony the trial court anchored its judgment of conviction, contradicted themselves as to the place where the subject sale of marijuana took place, as to who were present at the time of said sale, as well as the place where the aforementioned marked money bills (P45.00) were allegedly received by the appellant.

Susie testified that the actual sale of marijuana took place inside the school canteen of the University of San Agustin, while Jopson was outside thereof; that as to the marked money bills, Jopson allegedly received them from Susie while the three of them (Susie, Lapatha and Jopson) were near the school's publication building. [16] On the other hand, Sgt. Legaspi stated in his testimony that both the sale of marijuana and Jopson's receipt of the marked money bills occurred inside the school canteen with all the three (Susie, Jopson and Lapatha) being present. [17] To add to the contradiction, the apprehending CANU officer, Cpl. Cabalum, stated that the sale of marijuana and the receipt of the bills all happened near the aforementioned publication building. [18]

This inconsistency in the testimony of the prosecution witnesses gives rise to serious doubt as to their credibility.

It cannot be overlooked that the act being punished in this case is the sale of the prohibited drug (i.e. matchbox with marijuana leaves). The sale consisted of the delivery of marijuana and the receipt of payment of the purchase price (P45.00) therefor. Hence, the place where the delivery of the marijuana leaves and the receipt of payment took place, and who were present thereat, are all material and vital points in the case. The establishment of these facts (i.e. delivery of the matchbox and receipt of marked money bills by Jopson) with certainty is especially important and crucial as far as appellant Jopson is concerned, considering that his conviction was on the basis of conspiracy. We reiterate that the prosecution does not contend that Jopson was found in possession of any prohibited drugs or the marked money bills at the time of his arrest. Other than the undisputed fact that Susie and Jopson met that early afternoon of 2 March 1981, and the fact that Jopson was arrested together with Lapatha, there is no direct evidence pointing to the guilt of Jopson. All that the trial court said about Jopson's participation in the sale of marijuana is that he contacted Lapatha who, in fact, was found to be the actual seller of marijuana.

The trial court said -

"x x x and Joseph Maria Jopson cooperated with Andru Lapatha in the sale, as he contacted Andru Lapatha such that without his participation, the sale could not have been accomplished. x x x "[19]

At this juncture, the Court's attention is drawn to U.S vs. Phelps.[20] In that case, Smith, an employee of the Bureau of Internal Revenue, upon learning that accused Phelps occasionally smoked opium, and feeling that it was his duty to watch said accused thereafter, pretended and told accused that he (Smith) wanted to smoke opium and would pay for the expenses; that, upon knowing this, accused accompanied Smith to the house of a certain Chinese who prepared for them (accused and Smith) the opium and the pipe for smoking; that accused and Smith paid the Chinese for the said preparations; later on, Smith took the pipe and the pan containing the opium and left said house, and finally caused the arrest of the accused who was subsequently charged with violation of Act No. 1761. On appeal, this Court reversed the decision of the trial court which convicted the accused. It was held:

"But, as we have said, it is not contended that the accused had in his possession any of these things. According to the statements made by the witness Smith, he not only suggested the commission of this crime, but he (Smith) also stated that he desired to commit the same offense and would pay his part of the expense necessary for the commission of the prohibited act. Such conduct on the part of a man who is employed by the Government for the purpose of taking such steps as are necessary to prevent the commission of the offense and which would tend to the elevation and improvement of the defendant, as a would-be criminal, rather than further his debasement, should be rebuked rather than encouraged by the courts; x x x When an employee of the Government as in this case, and according to his own testimony, encourages or induces persons to commit a crime in order to prosecute them, such conduct is most reprehensible. x x x" (underscoring ours)

Further, in *People v. Abella and Bacula*, prosecution witness Lt. David after having received information that certain persons in Cebu were illegally selling dynamites, put on a disguise, simulating a merchant and acting through Juanito Quiros and offering a tempting price, being a very high one, caused the accused to sell him dynamites. On appeal, this Court reversed the decision of the trial court convicting the accused for violation of Act. No. 3023 on illegal sale of dynamites. It was held:

"x x x. We believe there was inducement, direct, persistent, and effective. It is true that said official wanted to satisfy himself of the veracity of the informations he had, but it is also true that he did not limit himself to inquiring into the consummated acts, but induced the accused to commit another act similar to those about which he had information."[21]

After careful evaluation, we hold that instigation, not entrapment, prevailed this case. Comparing instigation with entrapment, well established is the rule that -

"In entrapment, ways and means are resorted to for the purpose of trapping and capturing the law breakers in the execution of their criminal plan. On the other hand, in instigation, the instigator practically induces the would-be defendant into the commission of the offense, and himself becomes a co-principal. Entrapment is no bar to prosecution and conviction, while in instigation, the defendant would have to be acquitted."[22]

In this case, Jopson was not looking for buyers at the time Susie met him that afternoon of 2 March 1981. If ever he contacted a friend who could sell the marijuana, it was due to the persistent pleas of Susie Ariete in asking for some. Clearly, then, Susie, an admitted CANU informer who was operating closely with two (2) peace officers, induced Jopson to violate the anti-dangerous drugs law by pretending to be in urgent need of marijuana and disguising that she was ready to commit the offense.

Moreover, it is even doubtful whether at the time Susie first met Jopson that 2 March 1981, she was strictly performing her duty as an informer. The Court observes that the meeting between Susie and Jopson that afternoon

was purely by chance, and she admitted having herself taken Mercodol because she had problems. Her testimony goes as follows -

"ATTY. JIMENEA (on cross examination)

Q.

Is is not a fact that on March 2, 1981, at around 2:00 o'clock in the afternoon, you even informed him (Jopson, supplied) that you have taken mercodol and you are in dire need because the marijuana is not sufficient to you?

A. Yes, sir.

Q. How many ounces of mercodol did you take that very afternoon previous to your meeting of [sic] Jopson?

A. 15 cc.

Q. In other words, previous to March 2, 1981, you often take mercodol?

A. No, I did not.

Q. It was only on March 2 that you took mercodol?

A. Yes, sir.

Q. What was your purpose in taking mercodol?

A. Because I have a problem. (underscoring ours)

Q. Can you tell the court what kind of problem do you have?

A.

I cannot tell the Court."

x x x x x x x x

Q.

So on March 2, 1981, you were very insisting to let Jopson produce a stuff because you have taken in mercodol at that time and it was not sufficient to you?

Court: What stuff, the marijuana or mercodol? Make it clear. Reform your question. Make it clear. What do you mean by that stuff? She might think that you are referring to mercodol.

"ATTY. JIMENEA

Q.

I'll remove the word 'stuff'. Because mercodol is not sufficient. . . I reform. Do you know that this mercodol has also the same effect as marijuana?

A. 15 cc is not. It could help me.

Q. How many cc should you take in order to affect you?

A. I do not know because I am not a drug dependent. [sic]

Q. Did you tell Sgt. Legaspi that you have taken mercodol that afternoon also because you have problems?

A. I did not."[23] (underscoring ours)

It is uncertain, therefore, whether at the time Susie met Jopson on 2 March 1981, she was purely performing her duty as a CANU informer or she was really in need of mari-juana for her own personal satisfaction. As admitted by Susie herself, she had encountered prohibited drugs as early as when she was in high school,[24] and that before she became a CANU informer, she had gone to several parties attended by persons using prohibited drugs.[25]

But, whether or not the acts of Susie during her meeting with Jopson were in the fulfillment of her duty as an informer, the fact is that Susie, at the time of the sale of marijuana was a CANU informer, and the established facts show that Susie, as such, CANU informer, instigated Jopson to commit the offense charged.

While the Court commends what could be a lofty determination of CANU informer Susie in joining and giving assistance to the government in the latter's effort to reinforce the drive against dangerous drugs, yet, when such assistance takes the form of encouraging or inducing persons to commit a crime in order to prosecute them, such conduct does not deserve approval from the courts.

Applying the doctrine laid down in the aforecited cases, and considering the evidence presented in this case, as

well as the doubtful credibility of the prosecution witnesses, the Court cannot say that appellant Joseph Maria Jopson is guilty beyond reasonable doubt of the crime charged.

WHEREFORE, the judgment of the trial court is REVERSED and SET ASIDE. Appellant Joseph Maria Jopson is ACQUITTED of the crime charged, based on reasonable doubt. He is ordered released from detention unless held for some other legal cause. Without Costs.

SO ORDERED.

Melencio-Herrera, (Chairperson), Paras, Sarmiento, and Regalado, JJ., concur.

[*] Penned by Judge Amelia K. del Rosario.

[1] Original Records, CFI decision, p. 341

[2] Original Records, CFI decision, p. 342

[3] Rollo, pp. 103-105, Brief for the Appellee

[4] Original records, CFI decision, pp. 346-347

[5] Original Records, CFI decision, pp. 347-349

[6] Original records, p. 351

[7] Ibid.

[8] People v. Guillermo Egaras, et al., G.R. No. L-33357, July 29, 1988; People v. Pilapil, G.R. No. 72307, January 30, 1987, 147 SCRA 528

[9] People v. Rualo, G.R. No. 70287, July 31, 1987, 152 SCRA 635

[10] T.S.N., April 15, 1981, p. 247

[11] Ibid, April 13, 1981, pp. 5-6

[12] Ibid, April 13, 1981, p. 33; April 14, 1981, p. 191

[13] Ibid, April 15, 1981, pp. 250-251

[14] T.S.N., April 15, 1981, p. 231

[15] Original Records, CFI Decision, p. 353

[16] T.S.N., April 15, 1981, pp. 239, 240, 259-260

[17] T.S.N., Feb. 2, 1983, pp. 14-16

[18] T.S.N., Feb. 2, 1983, p. 35

[19] Original Records, CFI decision, p. 353

[20] No. 5728, August 11, 1910, 16 Phil. 440.

[21] No. L-20600, October 16, 1923, 46 Phil. 861

[22] People vs. Natipravat, G.R. No. 69876, Nov. 13, 1986, 145 SCRA 483

[23] T.S.N., April 15, 1981, pp. 256-258.

[24] Ibid, p. 253.

[25] Ibid.

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