

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JAIME GARCIA Y LUCIANO AND TEODORO MASIBAC Y VIDAL, ACCUSED-APPELLANTS.

G.R. Nos. 64867-68. April 17, 1989

Ponente: NARVASA, J.

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NARVASA, J.:

Early in the evening of September 9, 1982, a so-called "saturation raid" was conducted in the area of Morga Extension, Tondo, Manila, by some eight (8) police officers from Station 2 of the Western Police District. The raid was undertaken avowedly in response to reports of drug pushers and users in the area. It resulted, among others, in the confiscation by the officers of an olive green traveling bag from the rented room (in a house located at No. 344 Morga Extension) in which Ursula Galang resided with her daughter, Jocelyn and son, Loreto Masibac. The bag was found to contain (a) approximately one (1) gram of what appeared to be dried leaves of the flowering tops of the marijuana plant wrapped in plastic; (b) five (5) plastic packets or tea bags containing what also appeared to be dried marijuana leaves and rolling paper; (c) fifty (50) plastic tea bags with rolling paper; and (d) three (3) packages of OK brand rolling paper. The bag was surrendered to the police raiders by Jocelyn Masibac, on request of her mother, Ursula Galang. The officers were told that the bag belonged to a certain Allan Asunto.[1]

After the policemen had taken custody of the traveling bag they arrested Jaime Garcia and Teodorico Masibac who, according to an unnamed informant, were carrying on the nefarious trade of drug pushing in the neighborhood. Garcia and Masibac were arrested at the store owned by Luzviminda and Julia Marcos, situated opposite the house of Ursula Galang. Both suspects were thereafter brought to Station No. 2, together with Jocelyn and Loreto Masibac.

At the police station, Loreto Masibac signed a written statement, later marked Exhibit I,1 saying 2 "that one day before the opening of classes, his half-brother,** Teodorico Masibac, in the company of ** Jaime Garcia and Allan Asunto, arrived at his house at No. 344 Morga Extension and there began wrapping marijuana that they were selling to the neighborhood youth; that despite the fact that he told them to stop doing that they did not listen to him; that it was is half-brother, Teodorico, who was supplying the capital for the purchase of marijuana; that it was Allan Asunto who was buying it; and that it was ** Jaime Garcia who was vending the marijuana packed in plastic bags." When the forensic examination³ of the dried leaves surrendered to the police officers by Jocelyn Masibac, as aforesaid, disclosed them to be marijuana leaves, 4 Jaime Garcia and Teodorico Masibac were booked, placed under arrest, 5 and separately charged in the Manila Regional Trial Court with the offense of selling or offering for sale, without being authorized by law to do so, "dried marijuana leaves, which are prohibited drugs," in violation of Section 4, Article II in relation to Section 2 (e) (1), Article I of RA No. 6425, as amended by P.D. 1675, otherwise known as the Dangerous Drugs Act. 6

Both accused pleaded innocent on arraignment. The cases were then consolidated on motion of Masibac and

jointly tried. On the strength of the foregoing facts -- testified to by Sgt. Pedro Cerillo, Jr., WPD, Station 2, and NBI Forensic Chemist Felicisima Francisco -- inclusive of the sworn statement of Loreto Masibac above adverted to, marked Exhibit I, which Loreto acknowledged to have signed without reading and as to which he also asserted that the answers to sixteen (16) of the twenty-one (21) questions recorded in said statement were not his but those of the police investigators,⁷ judgment was rendered by the Regional Trial Court⁸ finding both accused guilty beyond reasonable doubt of the offense ascribed to them and sentencing each of them "to suffer the penalty of life imprisonment, both ** to be credited in full with the time they have been detained as prisoners, to pay a fine of P20,000.00 with subsidiary imprisonment in cases of insolvency, and to pay the costs."

Both Jaime Garcia and Teodorico Masibac have appealed and before this Court pray for acquittal. Their plea will be granted. They will be absolved of the crime.

It will at once be noted that there is no evidence worthy of the name establishing the gravamen of the crime imputed to the appellants: selling, or offering for sale dried marijuana leaves. The appellants were not found to be in possession of any leaves at the time of their arrest. As much is admitted by Sgt. Cerillo, who pertinently deposed, on cross examination, that the appellants were frisked and found to be negative of marijuana leaves,⁹ although he had earlier declared, on direct examination, that some dried marijuana leaves had been found stuck in the left pocket of Jaime Garcia's trousers.¹⁰ Both appellants, testifying in their behalf, denied having any marijuana at the time they were apprehended and searched.¹ Luzviminda Marcos, one of the owners of the store in front of which the appellants had been accosted by the police officers, saw the apprehension and search of the suspects and categorically declared that no marijuana leaves were found on the person of either of them.² Furthermore, neither Sgt. Cerillo nor anyone else ever testified that either of the appellants had actually sold marijuana, or offered it for sale, to anybody.

While there is some indication in the record that Jaime Garcia verbally admitted to the investigating officer participation in the drug-trafficking in the area,³ the use of such admission against him is ruled out by the fact that it was not made in the presence of his lawyer and by the absence of any proof of its having been preceded by the so-called "Miranda warnings" or advisories held by this Court as indispensable to the admission in evidence of extra-judicial confessions. The tenuous and incompetent character of that alleged admission is in truth underscored by the lack of any mention of it in either the appealed decision or the People's brief.

The Trial Court obviously relied on the written statement of Loreto Masibac, Exhibit I, to the effect that appellants, together with Allan Asunto, were placing marijuana in small plastic packets for sale to the neighborhood youth, and had paid no heed to his request that they stop doing so. This was improper. As above pointed out, Loreto Masibac had disowned the statement when presented to him for identification at the trial.⁴ Moreover, since Loreto Masibac never gave evidence on the witness box of the facts set out in said statement, the use of the statement as evidence against the appellants was violative of the well known rule of *res inter alios acta* embodied in Section 25, Rule 130 of the Rules of Court: "The rights of a party cannot be prejudiced by an act, declaration, or omission of another **." Neither may the statement be received, exceptionally, as an admission by a conspirator in accordance with Section 27 of the same Rule, since not even a pretense is made that the alleged author of the statement was ever a co-conspirator and had made the statement in relation to the conspiracy and during its existence.

The indications are that the traveling bag in which the marijuana was found belonged to Allan Asunto, who apparently has not been apprehended to this day. This is the Trial Court's finding, in fact, derived from the testimony of Sgt. Cerillo, the chief prosecution witness. This circumstance, and the fact that no marijuana was found on the persons of the appellants when searched shortly after the traveling bag had been confiscated by the raiding party, and the additional fact that the appellants' places of residence were quite far from the site of the

raid, further erode the case against them.

The Court must therefore hold that the evidence on record fails to prove beyond reasonable doubt the commission by the appellants of the offense described in the informations filed against them, or even of the crime, necessarily included in that charged, of illegal possession of prohibited drugs. The constitutional presumption of innocence on their part has not been destroyed. They must be acquitted.

WHEREFORE, the judgment of the Trial Court rendered on April 14, 1983 in Criminal Cases Nos. 82-11188 and 82-11189 is REVERSED and SET ASIDE, and both accused-appellants are ACQUITTED on reasonable doubt.

SO ORDERED.

Cruz, Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] Nov. 16, 1982, TSN, pp. 1-7 (testimony of Sgt. Pedro Cerillo, WPD, Station 2)

1 (Exh. I)

2 As summarized in the Decision of the Trial Court of April 14, 1983, Rollo, p. 46

3 Conducted by Felicisima Francisco, Forensic Chemist, NBI (TSN. Nov. 11, 1982, pp. 2-7)

4 Exhs. B, C, C-1 to C-4

5 Exhs. K and L, but only the accused Garcia affixed his signature to the booking sheet and arrest report, Exh. L-1 (Rollo, pp. 45-47)

6 Rollo, pp. 5, 6. The action against Teodorico Masibac was docketed as Crim. Case No. 82-11888 of the Manila RTC, Br. XXVII, that against Jaime Garcia, No. 82-11889 Br. XXX.

7 TSN, Nov. 17, 1982, pp. 10-11

8 Presided over by Judge (now Associate Justice of the Court of Appeals) Pedro Ramirez

9 TSN, Nov. 16, 1982, p. 7

10 Id., p. 3

1 TSN, Nov. 18, 1982, pp. 8-9; TSN, Dec. 1, 1982, pp. 45-46

2 TSN, Dec. 1, 1982, pp. 16-17

3 Id., Nov. 16, 1982, p. 5 (testimony of Sgt. Cerillo)

4 See footnote 7, p. 2, supra

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