



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 219829

Present:

CARPIO, J., *Chairperson*,
VELASCO, JR., *
PERALTA,
MENDOZA, and
LEONEN, JJ.

-versus-

MONIR JAAFAR y TAMBUYONG,
Accused-Appellant.

Promulgated:

18 JAN 2017

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DECISION

LEONEN, J.:

This reviews the Decision¹ dated February 24, 2015 of the Court of Appeals in CA-G.R. CR HC No. 01053-MIN affirming the conviction of accused-appellant Monir Jaafar y Tambuyong for violation of Article II, Section 5 of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

* Designated additional member per Special Order No. 2416-A dated January 4, 2017.

¹ Rollo, pp. 3-11. The Decision was penned by Associate Justice Henri Jean Paul B. Inting and concurred in by Associate Justices Edgardo A. Camello and Pablito A. Perez of the Twenty-Second Division, Court of Appeals, Cagayan de Oro City.

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In an Information, accused-appellant Monir Jaafar y Tambuyong (Jaafar) and Ahmad Gani y Idjirani (Gani) were charged with violation of Republic Act No. 9165:

That on the 11th day of September 2009 at Barangay Port Area, Isabela City, Zamboanga Peninsula, Philippines and within the jurisdiction of this Honorable Court, the above named accused, not being authorized by law to sell, deliver, give away to another, transport or distribute any dangerous drug, conspiring and confederating together, mutually aiding and assisting one another, did then and there willfully, unlawfully and feloniously sell and deliver to PO1 Marlon Takazi M. Look, who acted as poseur-buyer, one (1) [heat-sealed] transparent plastic sachet containing white crystalline substance weighing 0.0604 grams which when subjected to qualitative examination gave positive result to the tests for the presence of METHAMPHETAMINE HYDROCHLORIDE (SHABU), knowing [the] same to be a dangerous drug.

CONTRARY TO LAW.²

Upon arraignment, both accused pleaded not guilty.³ Trial on the merits ensued.⁴

According to the prosecution, at 8:00 a.m. on September 10, 2009, a male civilian informant reported to Chief of Police, Police Superintendent Alberto Capacio Larubis (Chief Larubis) that a certain “Mana” was selling methamphetamine hydrochloride (shabu) at the port area barangay located just beside the police station.⁵ Mana was later identified as Jaafar, who sold shabu between 12:00 m.n. and 4:00 a.m. to facilitate the sale of the drug and evade arrest.⁶ Jaafar allegedly peddled shabu in his house.⁷

Chief Larubis instructed SPO4 Enrico Morales (SPO4 Morales) to form a team composed of SPO3 Tabunyag, PO3 Perez, PO3 Hasim, PO2 Canete, PO2 Bobby Rey Bucoy (PO2 Bucoy), PO1 Insang, and PO1 Marlon Takazi M. Look (PO1 Look) and to schedule a buy-bust operation the next day. He also instructed the team to coordinate with agents from the Philippine Drug Enforcement Agency (PDEA).⁸ PO1 Look was designated as the poseur-buyer while PO2 Bucoy and PDEA Agent Mark Dela Cruz were designated as the arresting officers.⁹

² Id. at 5.

³ CA *rollo*, p. 66.

⁴ Id.

⁵ Id.

⁶ Id.

⁷ Id.

⁸ Id.

⁹ Id.

On September 11, 2009, the buy-bust team left the police station at 1:45 a.m. and went to Jaafar's house.¹⁰

Jaafar met PO1 Look and the informant at the door of his house and asked them if they were buying shabu.¹¹ PO1 Look answered in the affirmative and gave Jaafar a marked ₱500.00 bill.¹² Jaafar called for Gani inside the house.¹³ Gani came out and handed Jaafar a sachet containing shabu.¹⁴ Jaafar gave the sachet to PO1 Look, who immediately lit a cigarette—the pre-arranged signal agreed upon by the buy-bust team.¹⁵

The police officers rushed to arrest Jaafar, but he managed to escape.¹⁶ Jaafar threw away the marked ₱500.00 bill as he ran.¹⁷ Eventually, the arresting officers caught up with him 30 meters away from his house.¹⁸

Immediately after the arrest, PO1 Look marked the confiscated sachet of shabu with his initials.¹⁹ He then turned over the sachet and the marked ₱500.00 bill to their team leader, SPO4 Morales.²⁰ The buy-bust team brought Jaafar and Gani to the police station for investigation.²¹

Chief Larubis prepared a letter-request addressed to forensic chemist Melvin Manuel for the examination of the contents of the sachet.²² Upon examination, the contents tested positive for methamphetamine hydrochloride.²³

In his defense, Gani testified that he was at an internet café located near the police station at 2:00 a.m. on September 11, 2009.²⁴ After stepping out of the establishment, Gani was suddenly apprehended by unknown persons, who later identified themselves as PO1 Look and PO2 Bucoy.²⁵ He was detained at the police station for two (2) days and was subsequently

¹⁰ Id.

¹¹ Id. at 67.

¹² Id.

¹³ *Rollo*, p. 5.

¹⁴ *CA rollo*, p. 67.

¹⁵ Id.

¹⁶ Id.

¹⁷ *Rollo*, p. 5.

¹⁸ *CA rollo*, p. 67.

¹⁹ Id.

²⁰ Id.

²¹ Id.

²² Id.

²³ Id.

²⁴ Id. at 68. In the Regional Trial Court Decision, it was indicated that Gani was at the internet café on September 11, 2012.

²⁵ Id.

transferred to the Bureau of Jail Management and Penology.²⁶ Gani claimed that he did not know the reason for his arrest.²⁷

Meanwhile, Jaafar testified that he was at the internet café at 12:00 m.n. on September 11, 2009, watching people play video games.²⁸ He left after two (2) hours and made his way home.²⁹ Upon entering an alley, Jaafar saw six (6) persons headed towards him.³⁰ One of them pointed a gun at him and told him not to run. Out of fear, he ran towards the main road.³¹ However, the six (6) persons, who turned out to be police officers, caught up with him.³² They conducted a body search but found nothing since Jaafar was only wearing boxer shorts and a t-shirt. Jaafar was detained after his arrest and brought to the Office of the City Prosecutor at the City Hall of Isabela the next day.³³

The Regional Trial Court found that the prosecution clearly established all the elements of the crime of illegal sale of drugs.³⁴ Although the chain of custody rule was not strictly complied with, the trial court ruled that the integrity and evidentiary value of the confiscated shabu sachet had been duly preserved.³⁵ It applied the legal presumption of regularity in the performance of duties by the police officers.³⁶

Jaafar primarily relied on denial for his defense and presented a different story of what had transpired. The Regional Trial Court considered the version of the defense weak.³⁷ It could not have foreclosed the possibility that Jaafar committed the crime.³⁸ The Regional Trial Court also found it unusual that Jaafar never exhibited any form of resistance.³⁹ Instead, he remained cool and calm.⁴⁰ This, according to the Regional Trial Court, was an unusual reaction since a person whose rights were allegedly transgressed would offer some form of resistance.⁴¹

²⁶ Id.
²⁷ Id.
²⁸ *Rollo*, p. 6.
²⁹ *CA rollo*, p. 68.
³⁰ Id. at 69.
³¹ Id.
³² Id.
³³ Id.
³⁴ Id. at 70.
³⁵ Id. at 71.
³⁶ Id. at 72.
³⁷ Id.
³⁸ Id. at 72.
³⁹ Id. at 73.
⁴⁰ Id.
⁴¹ Id.

In its Decision⁴² dated May 15, 2012, the Regional Trial Court convicted Jaafar for violation of Article II, Section 5 of Republic Act No. 9165. However, it acquitted Gani for insufficiency of evidence. The dispositive portion of the Decision reads:

WHEREFORE, premises considered, accused Ahmad Gani Y Idjirani a.k.a. "Botchoy" is hereby ACQUITTED of the above charge for want of sufficient evidence. The property bond posted for his provisional liberty is ordered cancelled and returned to its lawful owner.

WHEREAS, accused Monir Jaafar y Tambuyong a.k.a. "Mana" is found GUILTY beyond reasonable doubt of the offense of illegal sale of 0.0604 gram of shabu, a dangerous drug, in violation of Section 5, Article II of Republic Act No. 9165, and is hereby sentenced to suffer the penalty of LIFE IMPRISONMENT and to pay a fine of P500,000.00.

SO ORDERED.⁴³

Jaafar filed an appeal before the Court of Appeals and raised the following errors: (1) the prosecution failed to prove his guilt beyond reasonable doubt; and (2) the arresting team violated the chain of custody rule under Section 21 of Republic Act No. 9165.⁴⁴

Jaafar argued that the shabu was not formally offered as evidence during trial; rather, it was only presented during the hearing for the application for bail. Hence, the Regional Trial Court should not have considered the shabu as evidence. Jaafar further argued that the prosecution failed to show an unbroken chain of custody of the shabu allegedly obtained from him. He pointed out that the police officers neither photographed nor inventoried the seized shabu sachet and emphasized that there were no representatives from the media and the Department of Justice as well as an elected public official to witness the proceedings.⁴⁵

On the other hand, the People of the Philippines argued that the alleged non-compliance with the chain of custody rule was not fatal to the prosecution's case considering that the integrity and evidentiary value of the seized items were properly preserved.⁴⁶

The Court of Appeals ruled that although the sachet of shabu was not formally offered in evidence during trial, it was nevertheless identified by PO1 Look and the forensic chemist. Being part of their direct testimonies,

⁴² Id. at 65–75. The Decision was penned by Presiding Judge Danilo M. Bucoy of Branch 2, Regional Trial Court, Isabela City, Basilan.

⁴³ Id. at 75.

⁴⁴ *Rollo*, p. 6.

⁴⁵ *CA rollo*, pp. 57–63.

⁴⁶ Id. at 88–91.

the shabu formed part of the records of the case. Hence, the Court of Appeals ruled that the Regional Trial Court did not err in considering the shabu as evidence.⁴⁷

The Court of Appeals also agreed with the Regional Trial Court with regard to the alleged violation of the chain of custody rule. Although there was a departure in the procedure mandated under Section 21 of Republic Act No. 9165, the Court of Appeals ruled that it did not automatically render the confiscated drugs inadmissible since the integrity of the seized shabu had been kept intact.⁴⁸

In its Decision⁴⁹ dated February 24, 2015, the Court of Appeals affirmed the Regional Trial Court Decision in toto.

Aggrieved, Jaafar filed a Notice of Appeal on March 20, 2015, which was noted and given due course in the Court of Appeals Resolution dated May 11, 2015.⁵⁰

In the Resolution dated October 7, 2015, this Court noted the records forwarded by the Court of Appeals and informed the parties that they could submit their supplemental briefs.⁵¹

On November 25, 2015, the People of the Philippines, through the Office of the Solicitor General, filed a Manifestation stating that it would dispense with the filing of a supplemental brief since all its arguments had been sufficiently raised in its Appellee's Brief dated August 22, 2013.⁵²

On January 26, 2016, accused-appellant filed a similar Manifestation stating that he would no longer file a supplemental brief and instead would adopt his appellant's brief.⁵³

The issue for this Court's resolution is whether the guilt of accused-appellant was proven beyond reasonable doubt despite the non-observance of the required procedure under Section 21 of Republic Act No. 9165.

⁴⁷ *Rollo*, pp. 7–8.

⁴⁸ *Id.* at 8-10.

⁴⁹ *Rollo*, pp. 3–10.

⁵⁰ *Id.* at 1.

⁵¹ *Id.* at 17.

⁵² *Id.* at 19.

⁵³ *Id.* at 25.

This Court grants the appeal and acquits accused-appellant Monir Jaafar y Tambuyong.

In all prosecutions for violations of Republic Act No. 9165, the *corpus delicti* is the dangerous drug itself.⁵⁴ Its existence is essential to a judgment of conviction.⁵⁵ Hence, the identity of the dangerous drug must be clearly established.⁵⁶

Narcotic substances are not readily identifiable.⁵⁷ To determine their composition and nature, they must undergo scientific testing and analysis. Narcotic substances are also highly susceptible to alteration, tampering, or contamination.⁵⁸ It is imperative, therefore, that the drugs allegedly seized from the accused are the very same objects tested in the laboratory and offered in court as evidence.⁵⁹ The chain of custody, as a method of authentication, ensures that unnecessary doubts involving the identity of seized drugs are removed.⁶⁰

Section 21 of Republic Act No. 9165 provides the manner by which law enforcement officers should handle seized dangerous drugs:

SECTION 21. *Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment.* — The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

- (1) The apprehending team having initial custody and control of the drugs *shall*, immediately after seizure and confiscation, *physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official* who shall be required to sign the copies of the inventory and be given a copy thereof[.] (Emphasis supplied)

⁵⁴ *People v. Simbahon*, 449 Phil. 74, 81 (2003) [Per J. Ynares-Santiago, First Division].

⁵⁵ *Id.*

⁵⁶ *Id.* See also *People v. Laxa*, 414 Phil. 156, 170 (2001) [Per J. Mendoza, Second Division]; *Mallillin v. People*, 576 Phil. 576, 586 (2008) [Per J. Tinga, Second Division].

⁵⁷ *Mallillin v. People*, 576 Phil. 576, 588 (2008) [Per J. Tinga, Second Division].

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.* at 586.

The Implementing Rules and Regulations of Republic Act No. 9165 further provide:

Section 21. Custody and Disposition of Confiscated, Seized and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment. — The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

- (a) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof: *Provided*, that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; ***Provided, further, that non-compliance with these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items[.]*** (Emphasis supplied)

While it may be true that non-compliance with Section 21 of Republic Act No. 9165 is not fatal to the prosecution's case provided that the integrity and evidentiary value of the seized items are properly preserved by the apprehending officers,⁶¹ this exception will only be triggered by the existence of a ground that justifies departure from the general rule.⁶²

This Court finds that the prosecution failed to show any justifiable reason that would warrant non-compliance with the mandatory requirements in Section 21 of Republic Act No. 9165.

Although the buy-bust team marked⁶³ and conducted a physical inventory⁶⁴ of the seized sachet of shabu, the records do not show that the seized sachet had been photographed.

⁶¹ *People v. Pringas*, 558 Phil. 579, 593 (2007) [Per J. Chico-Nazario, Third Division].

⁶² *Id.* at 594.

⁶³ *Rollo*, p. 9.

⁶⁴ *Id.*

Furthermore, there is absolutely no evidence to show that the physical inventory was done in the presence of accused-appellant or his representative, representatives from the media and the Department of Justice, and an elected public official.⁶⁵ The poseur-buyer, PO1 Look, testified as follows:

- Q. Can you go over this Certificate of [Inventory], is there an entry under the witnesses Media, do you see any name there and signature?
- A. No, sir[.]
- Q. How about representative from Department of Justice, can you see any name there and their corresponding signature?
- A. None, sir[.]
- Q. In the entry Elected Official, do you see any name there and their signature?
- A. None, sir.
- Q: And lastly[,] the representative of the accused, can you see any printed name there and signature?
- A. None, sir.⁶⁶

The buy-bust team had an entire day within which to coordinate with the persons required by law to be present during the physical inventory of the seized drugs. The Chief of Police received the confidential tip early in the morning.⁶⁷ He immediately instructed SPO4 Morales to form a buy-bust team and coordinate with agents from the Philippine Drug Enforcement Agency.⁶⁸ The buy-bust team had ample time to contact an elected public official and representatives from the media and the Department of Justice.

The prosecution established during trial⁶⁹ and on appeal⁷⁰ that the buy-bust operation had been carefully planned by narrating the events with intricate detail. However, at the same time, the prosecution relied heavily on the exception to the chain of custody rule.⁷¹ Worse, the prosecution did not even offer any explanation on why they failed to comply with what was mandated under the law. Indeed, if the police authorities had carefully planned the buy-bust operation, then there was no reason for them to neglect

⁶⁵ Rep. Act No. 9165, sec. 21(a).

⁶⁶ CA *rollo*, p. 59.

⁶⁷ *Rollo*, p. 4.

⁶⁸ *Id.*

⁶⁹ CA *rollo*, pp. 15–16.

⁷⁰ *Id.* at 84–86.

⁷¹ *Id.* at 89–90.

such important requirements. They cannot feign ignorance of the exacting standards under Section 21 of Republic Act No. 9165. Police officers are presumed and are required to know the laws they are charged with executing.

This Court cannot merely gloss over the glaring procedural lapses committed by the police officers, especially when what had been allegedly seized from accused-appellant was only 0.0604 grams of shabu.⁷² Recent cases⁷³ have highlighted the need to ensure the integrity of seized drugs in the chain of custody when only a miniscule amount of drugs had been allegedly seized from the accused.

In *People v. Holgado*,⁷⁴ this Court held that “[c]ourts must employ heightened scrutiny, consistent with the requirement of proof beyond reasonable doubt, in evaluating cases involving miniscule amounts of drugs . . . [as] they can be readily planted and tampered.”⁷⁵

Non-observance of the mandatory requirements under Section 21 of Republic Act No. 9165 casts doubt on the integrity of the shabu supposedly seized from accused-appellant. This creates reasonable doubt in the conviction of accused-appellant for violation of Article II, Section 5 of Republic Act No. 9165.

WHEREFORE, the Decision dated February 24, 2015 of the Court of Appeals in CA-G.R. CR HC No. 01053-MIN is **REVERSED** and **SET ASIDE**. Accused-appellant Monir Jaafar y Tambuyong is **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt. He is ordered immediately **RELEASED** from detention, unless he is confined for any other lawful cause.

Let a copy of this Decision be furnished to the Director of the Bureau of Corrections, Muntinlupa City, for immediate implementation. The Director of the Bureau of Corrections is directed to report to this Court, within five (5) days from receipt of this Decision, the action he has taken. Copies shall also be furnished to the Director General of the Philippine

⁷² CA rollo, p. 14.


⁷³ *People v. Holgado*, G.R. No. 207992, August 11, 2014, 732 SCRA 554, 569 (2014) [Per J. Leonen, Third Division]; *Tuano v. People*, G.R. No. 205871, September 28, 2016 <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/september2016/205871.pdf>> [Per J. Leonen, Second Division]; *People v. Talvo*, G.R. No. 215340, July 13, 2016 <sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/july2016/215340.pdf> [Per J. Leonen, Second Division].

⁷⁴ G.R. No. 207992, August 11, 2014, 732 SCRA 554 [Per J. Leonen, Third Division].

⁷⁵ Id. at 576–577.

National Police and the Director General of the Philippine Drug Enforcement Agency for their information.

SO ORDERED.

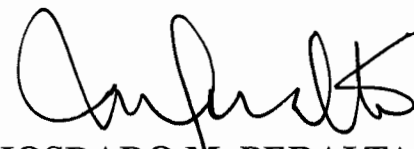

MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:



ANTONIO T. CARPIO
Associate Justice
Chairperson



PRESBITERO J. VELASCO, JR.
Associate Justice


DIOSDADO M. PERALTA
Associate Justice


JOSE CATRAL MENDOZA
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice