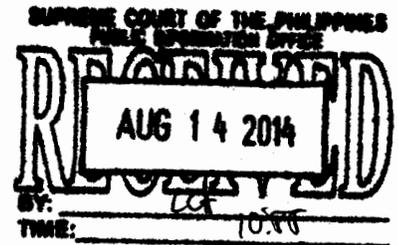




Republic of the Philippines
Supreme Court
Manila
THIRD DIVISION



NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated July 30, 2014, which reads as follows:

“G.R. No. 205584 (*Reynante Cruz y Manahan v. People of the Philippines*). - This is a petition for review under Rule 45 of the Rules of Court assailing (a) the June 1, 2012 Decision¹ of the Court of Appeals (CA), in CA-G.R. CR No. 33296, which affirmed the December 2, 2008 Decision² of the Regional Trial Court of San Mateo, Rizal, Branch 76 (RTC), finding petitioner Reynante M. Cruz (*petitioner*) guilty for illegal possession of dangerous drugs; and (b) the January 18, 2013 Resolution³ of the CA denying petitioner’s motion for reconsideration.

The Facts:

An Information was filed against petitioner charging him with violation of Section 11 (Possession of Dangerous Drugs), 2nd paragraph, No. 3, Article II, of Republic Act (R.A.) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002. The pertinent portion of the Information reads:

That on or about the 17th day of July, 2005 in the Municipality of San Mateo, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused without having been authorized by law to possess any dangerous drug, did then and there willfully, unlawfully and knowingly possess and have in his custody and control 0.02 gram, 0.10 gram and 0.61 gram or a total weight of 0.73 gram of white

¹ *Rollo*, pp. 81-97. Penned by Associate Justice Danton Q. Bueser and concurred in by Associate Justices Rosmari D. Carandang and Ricardo R. Rosario of the Sixth Division, Manila.

² *Id.* at 51-54.

³ *Id.* at 105.

crystalline substance, contained in three (3) heat sealed transparent plastic sachets, which were found positive to the test for Methylamphetamine Hydrochloride also known as "shabu," a dangerous drug, in violation of the above-cited law.

CONTRARY TO LAW.⁴

The case for the prosecution was supported by the testimony of SPO1 Herminio V. Arellano (*SPO1 Arellano*), an operative of the Municipal Anti-Illegal Drugs Operative Task Force, San Mateo, Rizal.

Version of the Prosecution:

On July 17, 2005, SPO1 Herminio Arellano (*SPO1 Arellano*) received a tip from a confidential informant that a pot session was being held in the house of a certain Luis in Manahan St., Brgy. Malanday, San Mateo, Rizal. Accordingly, at around 4:00 o'clock in the afternoon, SPO1 Arellano together with PO3 Juanito L. Tougan (*PO3 Tougan*) proceeded to the target area to conduct surveillance.

During the operation, from a distance of about 5 to 7 meters, they saw a shirtless man standing in front of a closed door of a house and holding a plastic sachet with the size of a tea bag. Considering that SPO1 Arellano had been an operative for a long time, he knew that the man, who turned out to be petitioner, was holding a prohibited drug. When petitioner noticed them, he immediately turned around to open the door of the house, but SPO1 Arellano rushed towards him and grabbed him by his shorts. When SPO1 Arellano took the plastic bag from the hand of petitioner, he discovered three (3) plastic sachets of different sizes and weights containing suspected shabu.

Petitioner was apprised of his constitutional rights and was thereafter taken to the police station for investigation. At the police station, SPO1 Arellano marked the three (3) plastic sachets confiscated from petitioner with the initials "HVA," "HVA-1" and "HVA-2," respectively. The specimens were then placed in a small brown envelope with the marking "D577-05" and turned over to the Philippine National Police (*PNP*) Crime Laboratory (*CL*) for examination. The substances were later found positive for methamphetamine hydrochloride with approximate weights of HVA=0.02 gram, HVA-1=0.10 gram and HVA-2= 0.61 gram as stated in Chemistry Report No. D-577-05 prepared by Police Senior Inspector Rowena Cecilia Cruz Acosta (*PSI Acosta*), Forensic Chemist.

⁴ Id. at 51.

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Version of the Defense:

On July 17, 2005, petitioner was having a drinking spree with his mother-in-law. At around 3:00 o'clock in the afternoon, he went home and slept. He was later called by his son and was informed that some visitors arrived. When he stood up from bed, he saw three (3) persons inside his house and one of them was SPO1 Arellano. Petitioner was told that he would be brought to the Municipal Hall. It was only during the inquest that he learned that he was being charged for violation of Section 11 of R.A. No. 9165. Petitioner claimed that he was not shown the thing that he allegedly possessed.

On December 2, 2008, the RTC found petitioner guilty for illegal possession of dangerous drugs. The dispositive portion of the RTC decision reads:

WHEREFORE, finding accused Reynante Cruz y Manahan GUILTY beyond reasonable doubt for violation of Sec. 11, 2nd par., No. 3, Article II of R.A. 9165 for illegal possession of 0.73 gram of Methylamphetamine Hydrochloride (shabu), a dangerous drug, and is sentenced to suffer imprisonment of Twelve (12) years and One (1) day as minimum to Twelve (12) years and Six (6) months as maximum and to pay a fine of Three Hundred Thousand Pesos (P300,000.00).

SO ORDERED.⁵

The RTC held that the discovery of the dangerous drugs in petitioner's possession falls within the doctrine of evidence in plain view.

Aggrieved, petitioner filed an appeal before the CA. Petitioner argued that the evidence gathered during the warrantless search was inadmissible in evidence.

On June 1, 2012, the CA denied the appeal. It affirmed the ruling of the RTC that the seized items were admissible in evidence. The CA gave credence to the prosecution witnesses who are police officers. It also stated that there was an unbroken link in the chain of custody of the seized evidence. The dispositive portion of the CA decision reads:

⁵ Id. at 54.

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WHEREFORE, premises considered, the appeal is DENIED. The Decision dated December 2, 2008 of the trial court is AFFIRMED.

SO ORDERED.⁶

Petitioner filed a motion for reconsideration of the said decision, but it was denied in the CA Resolution, dated January 18, 2013.

Hence, petitioner filed the present petition anchored on the following grounds:

1. The CA gravely erred in not finding the evidence seized during the warrantless search as inadmissible;
2. The CA gravely erred in giving full weight and credence to the prosecution's evidence notwithstanding the apprehending team's failure to prove the integrity and identity of the allegedly confiscated shabu; and
3. The CA gravely erred in affirming the petitioner's conviction despite the prevailing irregularities in the apprehending officers' performance of their official duties.⁷

On October 11, 2013, respondent through the Office of the Solicitor General (*OSG*), filed its Comment.⁸ In refutation of the assigned errors, the OSG argues that the CA did not err in admitting as evidence the seized sachets of *shabu*, the same having been confiscated from petitioner during a valid warrantless arrest. It asserts that the integrity and evidentiary value of the seized sachets of *shabu* were properly preserved by the arresting team.

In his Reply,⁹ petitioner reiterates that the prosecution failed to prove that the integrity and evidentiary value of the seized items were properly preserved in accordance with Section 21 of R.A. No. 9165. According to petitioner, the arresting team failed to photograph the seized items at the scene immediately after the arrest. The sachets were marked only at the police station. Moreover, the prosecution failed to identify and present the

⁶ Id. at 96.

⁷ Id. at 14-15.

⁸ Id. at 125-135.

⁹ Dated May 26, 2014.

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person who had custody of the seized *shabu* when it was delivered to the forensic chemist. More so, the forensic chemist failed to testify as to how the drugs were kept in her custody. Due to these lapses, there can be no assurance that the subject specimens submitted for examination were the same ones examined and presented in court. Hence, the same were inadmissible in evidence.

Petitioner's contention fails to persuade.

It has already been settled that the failure of police officers to mark the items seized from an accused in illegal drugs cases immediately upon its confiscation at the place of arrest does not automatically impair the integrity of the chain of custody and render the confiscated items inadmissible in evidence. In *People v. Resurreccion*,¹⁰ the Court explained that "marking" of the seized items "immediately after seizure and confiscation" may be undertaken at the police station rather than at the place of arrest for as long as it is done in the presence of the accused in illegal drugs cases. It was further emphasized that what is of utmost importance is the preservation of the integrity and the evidentiary value of the seized items, as these would be utilized in the determination of the guilt or innocence of the accused.¹¹

In this case, SPO1 Arellano testified that he marked the seized 3 plastic sachets of *shabu* with "HVA," "HVA-1" and "HVA-2," respectively, after they were brought to the police station.

As to the non-presentation by the prosecution of the person who had custody of the seized items, the law does not require the prosecution to present as witness every person who dealt with the arrest of the accused and the seizure of the prohibited drugs from him.

The non-presentation as witnesses of other persons such as the investigator and the forensic chemist was not fatal to the cause of the prosecution. The matter of presentation of witnesses by the prosecution is not for the court to decide. The prosecution has the discretion as to how to present its case and it has the right to choose whom it wishes to present as witnesses.¹²

¹⁰ 618 Phil. 523 (2009).

¹¹ *People v. Dimalag*, G.R. No. 180514, April 17, 2013, 696 SCRA 628, 645-646.

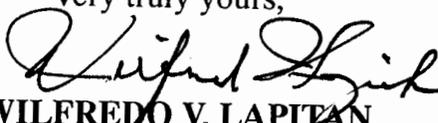
¹² *People v. Angkob*, G.R. No. 191062, September 19, 2012, 681 SCRA 414, citing *People v. Padua*, G.R. No. 174097, 21 July 2010, 625 SCRA 220, 235, citing *People v. Zeng Hua Dian*, G.R. No. 145348, June 14, 2004, 432 SCRA 25, 32.

The Court finds no reason to disregard the factual findings of the RTC and the CA that petitioner committed the crime charged against him. It is an established rule that factual findings of the trial court, if supported by evidence on record, and particularly when affirmed by the appellate court, are binding on this Court, unless significant facts and circumstances were shown to have been overlooked or disregarded which, if considered, would have altered the outcome of the case. Moreover, questions as to the credibility of a witness are matters best left to the appreciation of the trial court because of its unique opportunity to have observed that elusive and incommunicable evidence of the witness' deportment on the stand while testifying, which opportunity is denied to the reviewing tribunal.¹³

WHEREFORE, the petition is **DENIED**. (*Villarama, Jr., J., designated Acting Member in view of the vacancy in the Third Division, per Special Order No. 1691, dated May 22, 2014*)

SO ORDERED."

Very truly yours,


WILFREDO V. LAPITAN
Division Clerk of Court *8/14/14*

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(Crim. Case No. 8173)

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Judgment Division
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Supreme Court, Manila

¹³*People v. Dumalag*, supra note 11, citing *People v. Go*, 406 Phil. 804, 815 (2001).