



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **March 3, 2021** which reads as follows:*

“G.R. No. 249463 (People of the Philippines, Plaintiff-Appellee, v. Jason Monares y Matos, Accused-Appellant). – This appeal seeks to reverse and set aside the Decision¹ promulgated on 27 March 2019 by the Court of Appeals (CA) in CA-G.R. CR-HC No. 02600, which affirmed the Decision² dated 19 May 2017 of Branch 36, Regional Trial Court (RTC) of Iloilo City in Criminal Case Nos. 12-71417 to 12-71418, finding accused-appellant Jason Monares y Matos (accused-appellant) guilty beyond reasonable doubt of violation of Sections 5 and 11, Article II of Republic Act No. (RA) 9165.³

Antecedents

Accused-appellant was charged with violation of Sections 5 and 11, Article II of RA 9165, in two (2) Informations, the accusatory portions of which read:

Criminal Case No. 12-71417

That on or about the 12th day of June 2012, 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 willfully, knowingly, unlawfully and criminally sell, distribute and deliver to Agent Jasm S. See, poseur-buyer, one (1) pc. heat-sealed transparent plastic sachet containing 0.06 gram of methamphetamine hydrochloride (shabu), a dangerous drug,

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¹ *Rollo*, pp. 05-18; penned by Associate Justice Marilyn B. Lagura-Yap and concurred in by Associate Justices Edgardo L. Delos Santos (now a Member of this Court) and Dorothy P. Montejo-Gonzaga.

² *CA rollo*, pp.42-55; penned by Judge Victor E. Gelvezon.

³ Comprehensive Dangerous Drugs Act of 2002.



without the authority to sell and distribute the same, in consideration of seven hundred pesos (P700.00) consisting of one (1) piece fake five hundred peso bill; one (1) piece fake one hundred peso bill (boodle money); and one (1) piece genuine one hundred peso bill subscribed/marked money with Serial Number DV905845, which were used as buy bust money and which were subsequently recovered from the accused.⁴

Criminal Case No. 12-71418

That on or about the 12th day of June 2012, 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 willfully, knowingly, unlawfully and criminally have in his possession and control one (1) piece heat-sealed transparent plastic sachet containing 0.07 gram of methamphetamine hydrochloride (shabu), a dangerous drug, without the authority to possess or carry the same.⁵

Upon arraignment, accused-appellant pleaded not guilty to the charges. After termination of pre-trial, trial on the merits ensued.⁶

Version of the Prosecution

The members of the Philippine Drug Enforcement Agency (PDEA) received an information about the illegal drug trade activities of one *alias* Dodo, later identified as the accused-appellant in Fort San Pedro Drive Inn⁷, Iloilo City. Upon verification, the members of the PDEA formed a team, to conduct a buy bust operation against accused-appellant, with IO1 Jem See (IO1 See) as the poseur buyer and IO1 Rodito Lobaton, Jr. (IO1 Lobaton Jr.) and the rest of the team, as back-up arresting officers.⁸

The buy bust team proceeded to Fort San Pedro where the informant, together with IO1 See, approached accused-appellant who was about to leave. The informant introduced IO1 See to accused-appellant as his friend who will buy *shabu*.⁹ Accused-appellant then asked how much are they going to buy. IO1 See replied P700.00 pesos and immediately handed the buy bust money to accused-appellant. In exchange, accused-appellant gave a small plastic sachet with suspected *shabu*. IO1 See then took off his hat to signify

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⁴ CA rollo, pp. 5-6.

⁵ *Id.* at 6.

⁶ *Id.* at 43.

⁷ Also referred to as Port San Pedro in the records.

⁸ Rollo, p. 7.

⁹ TSN 11 May 2015, Witness IO1 See, p. 10.

consummation of the sale. Thereafter, as IO1 See was about to arrest accused-appellant, the latter tried to draw a pistolized shotgun which started a commotion. After the team subdued accused-appellant, they proceeded to their office.¹⁰

Upon arrival at their office, IO1 See searched accused-appellant and recovered from the latter, one (1) additional plastic sachet with suspected *shabu*, pistolized shotgun, holster, live ammunition, cellular phone, unused plastics and the buy bust money. IO1 then marked the seized items, The following day, an inventory was conducted at the prosecutor's office in the presence of *Barangay* Captain Bonete, Prosecutor Sustento and a media representative. After the inventory, IO1 See brought the seized items to the crime laboratory, received by IO2 Ma. Melinda Panaguiton. The items were found positive for *shabu*.¹¹

Version of the Defense

Accused-appellant denied the charges. According to him, on 12 June 2012, at around 10:30 o'clock in the evening, he was in Fort San Pedro, Iloilo City with his girlfriend watching a band performing. After a while, two (2) persons approached him and pointed a gun at him. He told them that he was not committing any crime but they forcibly boarded him in a vehicle. He was thereafter brought in a room and was forced to admit ownership of sachets of *shabu* allegedly recovered from him. He was later brought to the police station.¹²

Ruling of the RTC

On 19 May 2017, the RTC rendered its Decision, convicting accused-appellant of the offenses charged, thus:

WHEREFORE, judgment is hereby rendered as follows:

1. Finding accused Jason Monares y Matos Guilty beyond reasonable doubt of violation of Section 5, Article II, Republic Act No. 9165 under Criminal Case No. 12-71417 and sentencing him to suffer the penalty of life imprisonment and to pay the fine of Five Hundred Thousand (500,000.00) Pesos; and
2. Finding accused Jason Monares y Matos Guilty beyond reasonable doubt of violation of Section 11, Article II of Republic Act 9165 under Criminal Case No. 12-71418 and

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¹⁰ *Rollo*, pp. 7-8.

¹¹ *CA rollo*, p. 46

¹² *Id.* at 29.

sentencing him to suffer an indeterminate penalty of imprisonment ranging from Twelve (12) Years and One (1) Day, as minimum to Fourteen (14) Years, as maximum and to pay the fine of Three Hundred Thousand (P300,000.00) Pesos.

x x x

SO ORDERED.¹³

In convicting accused-appellant, the RTC found that the prosecution has duly established all the elements of illegal sale and illegal possession of *shabu*. It held that accused-appellant was validly arrested and that the subsequent warrantless seizure of the illegal drugs found in his possession was equally valid. Also, it held that the prosecution had duly established the chain of custody of the seized items from seizure until its presentation in court.¹⁴ It disregarded accused-appellant's defense of denial and frame up as they were not substantiated by clear and convincing evidence.¹⁵

Aggrieved, accused-appellant appealed to the CA.

Ruling of the CA

In its Decision dated 27 March 2019, the CA affirmed accused-appellant's conviction. The dispositive portion of said decision reads:

WHEREFORE, the Decision dated May 19, 2017 rendered by the Regional Trial Court, Branch 36, Iloilo City convicting accused-appellant Jason Monares y Matos of Violations of Sections 5 and 11 of Article II of R.A. 9165 or the Comprehensive Dangerous Drugs Act is **AFFIRMED**.

x x x

SO ORDERED.¹⁶

The CA held that the prosecution has sufficiently proved all the elements of illegal sale and illegal possession of *shabu*. Accused-appellant was caught in *flagrante* selling *shabu* to IO1 See who positively identified him as the same person who sold the plastic sachet with *shabu*. Likewise, after the search upon accused-appellant, IO1 See found in his possession one (1) sachet with suspected *shabu*, which accused-appellant was not authorized to possess. The CA also held that the prosecution have complied with the rules on the chain of

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¹³ *Id.* at 54-55.

¹⁴ *Id.* at 50-53.

¹⁵ *Id.* at 47-48.

¹⁶ *Rollo*, p. 18.

custody and that the integrity and evidentiary value of the *corpus delicti* has not been compromised.¹⁷ The CA gave credence to the testimonies of the PDEA agents absent any ill motive to falsely impute against accused-appellant such serious offenses of illegal sale and illegal possession of *shabu*.¹⁸

Hence, this appeal.

Issue

The sole issue in this case is whether or not the CA correctly affirmed accused-appellant's conviction for illegal sale and illegal possession of dangerous drugs under Sections 5 and 11, Article II of RA 9165.

Ruling of the Court

The appeal is granted.

Petitioner primarily assails his warrantless arrest including the incidental search made on his person claiming that he was merely watching a band playing and was not committing any crime.¹⁹

For the warrantless arrest under paragraph (a) of Section 5, Rule 113 to operate, two (2) elements must concur: (1) the person to be arrested must execute an overt act indicating that he has just committed, is actually committing, or is attempting to commit a crime; and (2) such overt act is done in the presence or within the view of the arresting officer.²⁰

Based on the facts and evidence on hand, We find petitioner's warrantless arrest valid. As a form of entrapment, a buy bust operation was conducted by the team against accused-appellant. During the said operation, accused-appellant was caught *in flagrante* selling *shabu* to IO1 See, in exchange for Php700.00.

The foregoing notwithstanding, We find sufficient basis to acquit petitioner on reasonable doubt.

Petitioner was charged with the offenses of illegal sale and illegal possession of dangerous drugs, defined and penalized under Sections 5 and 11, Article II of RA 9165.

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¹⁷ *Id.* at 12-17.

¹⁸ *Id.* at 12.

¹⁹ *CA rollo*, pp. 30-31.

²⁰ *See Miclat v. People*, G.R. No. 176077, 31 August 2011, 672 Phil. 191-212 (2011) [Per J. Peralta].

In a prosecution for the illegal sale of dangerous drugs, such as *shabu*, the following elements must be duly established: (1) the identity of the buyer and seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment therefor. The delivery of the illicit drug to the poseur-buyer, and the receipt by the seller of the marked money successfully consummate the buy-bust transaction.²¹

Upon the other hand, to convict an accused for illegal possession of dangerous drugs, the prosecution must prove: (a) that the accused was in possession of an item or an object identified as a dangerous drug; (b) such possession was not authorized by law; and (c) the accused freely and consciously possessed the said drug.²²

In prosecutions involving narcotics, the narcotic substance itself constitutes the *corpus delicti* of the offense and the fact of its existence is vital to sustain a judgment of conviction.²³ It is therefore essential that the identity and integrity of the seized drug be established with moral certainty.²⁴

To preserve the *corpus delicti*, Section 21 of RA 9165, the applicable law at the time of the commission of the alleged offense,²⁵ outlines the procedure which the police officers must strictly follow, thus: (1) the seized items be inventoried and photographed immediately after seizure or confiscation; (2) the physical inventory and photographing must be done in the presence of (a) the accused or his/her representative or counsel, (b) an elected public official, (c) a representative from the media, and (d) a representative from the Department of Justice (DOJ), all of whom shall be required to sign the copies of the inventory and be given a copy of the same; and (3) the seized drugs must be turned over to a forensic laboratory within twenty-four (24) hours from confiscation for examination.²⁶

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²¹ *People v. Cabiles*, G.R. No. 220758, 07 June 2017, 810 Phil. 969-978 (2017) [Per J. Tijam].

²² *People v. Ching*, G.R. No. 223556, 09 October 2017, 819 Phil. 565-581 (2017) [Per J. Perlas-Bernabe].

²³ *People v. Nacua*, G.R. No. 200165, 30 January 2013, 702 Phil. 739-755 (2013) [Per J. Leonardo-De Castro].

²⁴ *People v. Yagao*, G.R. No. 216725, 18 February 2019 [Per CJ. Bersamin].

²⁵ The Information alleged that accused-appellant committed the offense on 12 June 2012, thus, the earlier version of Sec 21 of RA 9165 and its Implementing Rules and Regulations shall apply, *i.e.*, prior to its amendment by RA 10640, (An Act to Further Strengthen the Anti-Drug Campaign of the Government, Amending for the Purpose Section 21 of RA 9165, Otherwise Known as the "Comprehensive Dangerous Drugs Act of 2002" which was approved on 15 July 2014 and became effective on 07 August 2014 or 15 days after its publication on 23 July 2014.

²⁶ *People v. Espejo*, G.R. No. 240914, 13 March 2019 [Per J. Caguioa].

Likewise, the prosecution must establish the chain of custody of the dangerous drugs to ensure its integrity, *i.e.*, first, the seizure and marking of the illegal drug recovered from the accused by the apprehending officer; second, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; third, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and fourth, the turnover and submission of the marked illegal drug seized by the forensic chemist to the court.²⁷ Any break or disruption in the links would cast doubt in the identity and integrity of the seized item. Hence, it is essential for the prosecution to establish with moral certainty that the identity of the drug presented in court is the very same drug sold by the accused.²⁸

The PDEA agents failed to comply with the foregoing requirements.

The marking, inventory and taking of photographs of the seized items were not immediately conducted at the place of arrest

IO1 See marked the seized items at their office as the place where accused-appellant was arrested was known to be hostile and it was already dark.²⁹ However, it is noted that IO1 See marked the seized items without the presence of the three (3) mandatory witnesses. Worse, the inventory and taking of photographs were made the following day. While the three (3) mandatory witnesses were already present during the inventory and taking of photographs, the considerable lapse of time created doubt on the integrity of the seized items as there was no testimony as to the handling and custody of the same after the marking. Moreover, it runs counter to the mandate that the seized items be immediately inventoried and photographed after seizure.

The phrase "immediately after seizure and confiscation" found in both RA 9165 and its IRR means that the physical inventory and photographing of the drugs are to be made immediately after, or at the place of, apprehension. And only if this is not practicable can the inventory and photographing then be done as soon as the

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²⁷ *People v. Dahil*, G.R. No. 212196, 12 January 2015, 750 Phil. 212-239 (2015) [Per J. Mendoza].

²⁸ *People v. De Dios*, G.R. No. 243664, 22 January 2020 [Per J. Perlas-Bernabe].

²⁹ TSN dated 11 May 2015, Witness IO1 See, p. 15.

apprehending team reaches the nearest police station or the nearest office. There can be no other meaning to the plain import of this requirement. By the same token, this also means that the required witnesses should already be physically present at the time or near the place of apprehension — a requirement that can easily be complied with by the buy-bust team considering that the buy-bust operation is, by its nature, a planned activity. Simply put, the apprehending team has enough time and opportunity to bring with them the said witnesses.³⁰

There was no turn over of the seized items to the investigator

According to IO1 See, he was in custody of the seized items from seizure until he transmitted the same to the crime laboratory.³¹ However, there was no testimony on how the illegal drugs were carried or how their integrity was preserved while in transit. In *People v. Bangcola*,³² it was held that the apprehending officer's act of keeping the seized evidence until its transfer to the forensic chemist and his failure to transfer the seized evidence to the investigating officer are considered breaks in the chain of custody.

The buy bust team failed to offer any justification for their deviation from the requirements of the law

Strict compliance with the requirements under the law is mandatory, a deviation may be allowed only if the following requisites concur: (1) the existence of "justifiable grounds" allowing departure from the rule on strict compliance; and (2) the integrity and the evidentiary value of the seized items are properly preserved by the apprehending team. Thus, when there is a showing of lapses in procedure, the prosecution must recognize such and accordingly justify the same in order to warrant the application of the saving mechanism.³³

In this case, the prosecution failed to offer any justification why the marking was not done at the place of apprehension. Neither did it try to justify the conduct of the inventory and photographing of the seized items the following day.

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³⁰ *People v. Sanico*, G.R. No. 240431, 07 July 2020 [Per CJ. Peralta].

³¹ TSN dated 11 May 2015, Witness IO1 See, p. 12.

³² G.R. No. 237802, 18 March 2019 [Per J. Gesmundo].

³³ *See Dizon v. People*, G.R. No. 239399, 25 March 2019 [Per J. Caguioa].

Non-compliance with the chain of custody requirements of R.A. No. 9165 and the failure of the prosecution to offer and prove its reasons for the procedural lapses³⁴ inescapably leads to an accused's acquittal. Conviction cannot be sustained by a mere presumption of regularity and the approximation of compliance.³⁵ Moreover, strict adherence to Section 21 is required where the quantity of the illegal drug seized is miniscule, as in this case, where the seized *shabu* weighs .06 and .07 grams respectively, since it is highly susceptible to planting, tampering or alteration of evidence.³⁶

All told, the foregoing deviations by the PDEA agents in the seizure, handling and custody of the seized drug greatly diminished its evidentiary value and casts doubt as to its identity and integrity as well. Thus, for failure of the prosecution to prove the *corpus delicti* beyond reasonable doubt, the Court is therefore constrained to acquit accused-appellant.

WHEREFORE, the appeal is **GRANTED**. The Decision promulgated on 27 March 2019 by the Court of Appeals, finding accused-appellant **JASON MONARES y MATOS** guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of Republic Act No. 9165, is **REVERSED** and **SET ASIDE**. He is hereby **ACQUITTED** on the ground of reasonable doubt. He is ordered immediately **RELEASED** from detention unless he is being confined for some other lawful cause.

The Superintendent of the Bureau of Corrections, Muntinlupa City, is **DIRECTED** to **IMPLEMENT** this Resolution and to report to this Court the action taken hereon within five (5) days from receipt.

The letter dated December 4, 2020 of Presiding Judge Victor E. Gelvezon of the Regional Trial Court, Branch 36, Iloilo City, in compliance with the Resolution dated September 2, 2020, is **NOTED**.

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³⁴ See *People v. Ternida*, G.R. No. 212626, 03 June 2019 [Per J. Leonen].

³⁵ *People v. Royol*, G.R. No. 224297, 13 February 2019 [Per J. Leonen].

³⁶ *People v. Padua*, G.R. No. 239781, 05 February 2020 [Per CJ Peralta].

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *8/11*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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